

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

STEVEN G. MILLETT, MELODY J. MILLETT,	)	
On Behalf of Themselves and All Others	)	
Similarly Situated,	)	
Plaintiffs,	)	
	)	Case No. 05-599-SLR
v.	)	
	)	
TRUELINK, INC.,	)	
A Trans Union Company,	)	
	)	
Defendant.	)	

REDACTED  
APPENDIX TO  
PLAINTIFFS' REPLY TO DEFENDANT'S ANSWERING BRIEF IN OPPOSITION TO  
DEFENDANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT

Christopher J. Curtin, Esquire  
MacElree Harvey, Ltd.  
5721 Kennett Pike  
Centreville, DE 19807  
Phone: 302.654.4454  
Facsimile: 302.654.4954  
Email: [ccurtin@macelree.com](mailto:ccurtin@macelree.com)  
Website: [macelree.com](http://macelree.com)

COUNSEL FOR PLAINTIFFS  
STEVEN G. MILLETT  
AND MELODY J. MILLETT

DATE: November 13, 2007

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Christopher J. Curtin, Esquire  
MacElree Harvey, Ltd.  
5721 Kennett Pike  
Centreville, DE 19807  
Phone: 302.654.4454  
Facsimile: 302.654.4954  
Email: [ccurtin@macelree.com](mailto:ccurtin@macelree.com)  
Website: [macelree.com](http://macelree.com)

COUNSEL FOR PLAINTIFFS  
STEVEN G. MILLETT  
AND MELODY J. MILLETT

FILED: November 13, 2007

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**CERTIFICATE OF SERVICE**

I, Christopher J. Curtin, Esq., hereby certify that on November 13, 2007, I served a copy of the foregoing Appendix to Plaintiffs' Reply to Defendant's Answering Brief in Opposition to Plaintiffs' Motion for Partial Summary Judgment by depositing the same in the United States Mail, postage prepaid to:

William M. Lafferty, Esq.  
Jay N. Moffitt., Esq.  
Morris Nichols Arsht & Tunnell  
1201 N. Market St.  
Wilmington, DE 19801  
[wlafferty@mnat.com](mailto:wlafferty@mnat.com)

and that I served a copy electronically this day to the following:

Michael C. O'Neil  
Paula D. Friedman  
DLA Piper US LLP  
203 N. LaSalle St., Ste. 1900  
Chicago, IL 60601-1293  
[michael.Oneil@dlapiper.com](mailto:michael.Oneil@dlapiper.com)  
[paula.friedman@dlapiper.com](mailto:paula.friedman@dlapiper.com)

s/ Christopher J. Curtin  
Christopher J. Curtin, Esquire  
MacElree Harvey, Ltd.  
5721 Kennett Pike  
Centreville, DE 19807  
Phone: 302.654.4454  
Facsimile: 302.654.4954  
Email: [ccurtin@macelree.com](mailto:ccurtin@macelree.com)  
Website: [macelree.com](http://macelree.com)

DATE: November 13, 2007

EXHIBIT A

EXHIBIT 1 OFFERED FOR THE CONVENIENCE OF THE PARTIES AND  
COUNSEL, AN EXHIBIT ACCOMPANYING, WITHOUT ARGUMENT INTENDED,  
PLAINTIFFS' REPLY TO DEFENDANT'S RESPONSE TO PLAINTIFFS MOTION  
FOR PARTIAL SUMMARY JUDGMENT  
AND BRIEF IN OPPOSITION

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EXHIBIT.1.A

PLAINTIFFS FACTS CONTROVERTED BY DEFENDANT'S ANSWERING BRIEF

Plaintiffs provide the following summary, for the convenience of the Court and the parties, concerning the factual allegations which have been **controverted** by Defendant's response (D.I. 165).

Page on D.I. 165	Plaintiff's ¶	Defense ¶	Topic	Cross references
2	11-12, 26, 28, 34-37, 46	1	Defendant summary of argument (no allegation of fact asserted)	
4	9, 11-12, 19, 20, 26, 34-37, 46	4 (Also see D's paragraph 7)	Terms of advertising and contract incorporation	Statements in Paragraph 4 do not dispute <b>factual</b> allegations of 9, 11-12, 19-20, 26, 34-37, 46.
5-6	11, 12, 26	7	Applicability of advertising	
10	20-22	16	Dates of "complete protection" advertising	
12	84	20	Content of electronic mail (no need to be concerned content)	

Page on D.I. 165	Plaintiff's ¶	Defense ¶	Topic	Cross references
14-15	31-32, 78-83, 93	24	"Watch status"	
19	56-58	45	Credit denials	Relevancy argument
19		46	Credit denials	Relevancy argument
21	7, 10, 16, 17, 20, 21, 23 †	49	Uniform contract	Relevancy argument
21	13	50(1st bullet)	TrueLink knowledge of information in credit "file"	
21	25	50(2nd bullet)	Use of Social Security number is theft	
21-22	28	50(3rd bullet)	Credit "report" and detections	
22	14	51(1st bullet)	Economic harm and testimony of corp. officers	
22	27	51(2nd bullet)	Whether it is possible to protect oneself from identity theft	
22	34	51(3rd bullet)	Representations as to identity theft	
22	35	51(4th bullet)	Credit report as tool	
23	51	51(5th bullet) ‡	Aware of reason for purchase	
23	52	51(6th bullet)	Notification of a type of fraud	
23	53	51 (7th bullet)	Aware of reason to purchase	

Page on D.I. 165	Plaintiff's ¶	Defense ¶	Topic	Cross references
23	73-75	51(8th bullet) μ	Credit file matching and use of more than one Social Security number	
23	15, 72	52(1st bullet)	Access of credit bureau information	
24	54	52(2nd bullet)	Mr. Millett directed spouse to purchase	
24	89	52(3rd bullet)	Notification date	
24	90	52(4th bullet)	Profit reference	
24	30	30(5th bullet)	Contract term on discontinuation of service	

EXHIBIT 1.B. PLAINTIFFS FACTS CONTROVERTED BY DEFENDANT SOLELY  
BY MOTION TO STRIKE EXPERT REPORT OF DIMBERT

Plaintiffs provide the following summary, for the convenience of the Court and the parties, concerning the factual allegations which have been **controverted** solely by Defendant's reference to Defendant's **motion to strike the report** of Plaintiffs' expert, Ronald Dimbert.

	Plaintiff's paragraph	Defendant's paragraph	Topic	Page References
20- 21	8, 44	48	Kansas consumer expectations	Motion strike report of Dimbert

EXHIBIT 1.C. PLAINTIFFS' FACTS CONTROVERTED SOLELY BY DEFENSE  
MOTION TO STRIKE MS. MILLETT'S AFFIDAVIT

Plaintiffs provide the following summary, for the convenience of the Court and the parties, concerning the factual allegations which have been **disputed** by Defendant solely by reference to Defendant's Motion to **strike the affidavit** of Plaintiff Melody Millett. Plaintiffs have opposed the Motion to strike the affidavit which was offered in support of Plaintiffs' Motion for Partial Summary Judgment.

	Plaintiff's paragraph	Defense §	Topic	Page Reference
19- 20	59-61, 66-70	47	Trans Union knowledge of data fraud as to Perez accounts	Motion to strike Millett affidavit

EXHIBIT 1.D. DEFENDANT'S FACTS ASSERTED WHICH ARE  
CONTROVERTED BY PLAINTIFFS' REPLY

Plaintiffs provide the following summary, for the convenience of the Court and the parties, of the **facts which are raised in Defendant's answering brief** in opposition (D.I. 165). Plaintiffs provide this reference to their responses to **controvert Defendant's new facts asserted.**

Page in D.I. 165	Plaintiff¶	Defense¶	Topic	Argument
2		2	Purchase facts	
3-4		3	Purchase facts	
4	9, 11-12, 19 20, 26, 34-37, 46 ¶	4	Terms of advertising and contract incorporation	Legal objection
<p>¶ No <i>factual</i> dispute appears to be offered as to these paragraphs: Plaintiffs paragraph 9:</p> <p>“Defendant incorporated into the terms of the contract the language of the web page advertising.”</p> <p>Plaintiffs paragraph 19: “Defendant’s credit monitoring contract incorporated the web page information.”</p> <p>Plaintiffs’ paragraph 37: “The ‘credit report’ does not contain all information available to Trans Union about a consumer which is contained in a consumer file held by Trans Union.”</p> <p>Plaintiffs’ paragraph 46: “Defendant promised to alert its purchasers to potential identity theft.”</p>				
4		5	Applicability of FRCA	
5		6	Fraud watch and “identity theft”/ “credit report”	
5-6	11, 12, 26	7	Applicability of advertising	

6-7		9	Disclaimer terms	
8-9		11	Terms of FCRA	
9		12	Disclaimers in industry	
9		13	Disclaimers in resellers agreements	
9-10		14	Plaintiffs' expectations	
10		15	Plaintiff testimony	
11		17	Definition identity theft	
11		18	Reasonable person interpretation of advertising	
12		19	Identity theft events not on Mr. Millett's credit "file"	
13		21	Email alerts and Steven Millett response	
13		22	A) did not report problem; B) did not request refund C) did not cancel D) found product had value	
14		23	A) purchases B) types of identity theft C) value of product	
20	8, 44	48	Consumer survey	

Exhibit. 1. E. Uncontroverted Facts

Plaintiffs provide the following summary, for the convenience of the Court and the parties, of the facts from Plaintiffs' motion for partial summary judgment which are factually uncontroverted.

D.I. 165 page #	Plaintiff's paragraph	Defendant's paragraph	Topic	Notes
8	15, 37, 73, 88±	10	Reporting industry inaccuracies	
17	33	37	Plaintiffs received reports of changes but no change had occurred	
18	41-43, 47	39	Allegations made concerning "CoreFail"	
	1		Plaintiffs are consumers under Act	
	2		Defendant is supplier under Act	
	3		Defendant sold a product or service	
	4		Purchase of credit monitoring is a "consumer transaction" defined by Act	
	5		Defendant supplied a "service" as defined by the act	Fact uncontested
	6		Number of members of KCPA class	Fact uncontested
	9		Advertising incorporated into contract	Fact uncontested
23	15	10 €	Aware of reason for purchase	
	18		Internet pages contained advertising	

D.I. 165 page #	Plaintiff's paragraph	Defendant's paragraph	Topic	Notes
	24		Defendant tells employees fraud includes imposter using identifiers	
	29		Contract posted and utilized until replaced; consumers were to check website for changes	
4	9, 11-12, 19-20, 26, 34-37, 46£	4	Terms of advertising and contract incorporation	
	48		All purchasers agree to similar contract	
6	49	8	Warranties for merchantability and fitness for a particular purpose were excluded	
6	50	8	Warranties were excluded <sup>∞</sup>	
	55		Steven Millett first purchase date (delegated to Melody Millett)	
	62		Perez purchase of Social Security number	Defendant's motion to strike Millett affidavit
	63		Discovery litigation allowed Plaintiffs to learn of Social Security use by Perez	Defendant motion to strike Millett affidavit
	64		Ms. Millett and code used in industry	Defendant motion to strike Millett affidavit
	65		Credit reporting agencies use unified reporting	Defendant motion to strike Millett affidavit

D.I. 165 page #	Plaintiff's paragraph	Defendant's paragraph	Topic	Notes
	76		Defendant and credit reporting agency cannot determine who has been issued any given Social Security number	
	77		Defendant used Social Security number as one of key identifiers	
	85		Millett can close only accounts he discovers	
	86		Compliance officer, Anderson, statements as to use of reports as detection tool	Anderson Affidavit to support answering brief in opposition,
	87		Plaintiffs' litigation	
	88		Credit report is not always accurate	
	91		Police warn Plaintiffs to be cautious	Motion to strike affidavit,
	93		Defendant told subscribers to relax and have "peace of mind" because monitoring had been paid for	

Ex. 1.E. DEFENDANT’S ACTS UNCONTROVERTED BY PLAINTIFFS FOR  
PURPOSES OF THE MOTION FOR SUMMARY JUDGMENT ONLY

Plaintiffs provide this summary, for the convenience of the Courts and the parties, of those new facts asserted by Defendant in its brief in opposition (D.I. 165). These new facts are not controverted by Plaintiffs for purposes of this Court’s determination of Plaintiffs’ motion for partial summary judgment and for purposes of this motion only.

D.I. 165 page #	Plaintiff’s paragraph	Defense ¶	Topic	Page Pl. (D.I.-- -)	Page Def. (D.I. 165)
15	32{*}	25	“Watch” set		
<u>{*} These paragraph references were added by Plaintiffs but not referenced by Defendant in the answering briefing</u>					
15	79 {*}	26	“Watch” request to TU		
15	79-80, 83, 93 {*}	27	“Watch set failure”		
15	79	28	TU monitors “credit report” for changes		
15		29	Debit card charge failed		
16		30	Defendant notified Mr. Millett		
16		31	New order failed		
16		32	Policy to attempt to charge again		
16		33	“Confirm Watch Delete” for non-payment		
16		34	New order cancelled		

D.I. 165 page #	Plaintiff's paragraph	Defense ¶	Topic	Page Pl. (D.I.-- -)	Page Def. (D.I. 165)
16		35	Completed order for monitoring		
16- 17		36	A) No charges made while the “watch” was not set B) Ms. Millett has not established that she paid for monitoring with her debit card		
17		38	Blank fraud alert changes for customers with fraud alerts on credit “file” from 5/5/04 to 4/29/05		
18	39, 40, 41, 42	40	Steps to enrollment		
18	39, 40, 41, 42	41	After charge, pull credit report, if valid credit report, identification verification		
18	41	42	CoreFail defined		
18	42-43, 47	43	If CoreFail, steps		
18		44	No CoreFail with Mr. Millett		

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

STEVEN G. MILLETT,

MELODY J. MILLETT,

On Behalf of Themselves and

All Others Similarly Situated,

Plaintiffs,

vs.

C.A. No. 05-599-SLR

TRUELINK, INC.,

Class Action

a Trans Union Company,

Jury Trial Demanded

Defendant.

VIDEOTAPED DEPOSITION OF STEVEN G.

MILLETT, a Plaintiff, taken on behalf of the  
Defendant before Nissa M. Sharp, CSR, CCR #528,  
pursuant to Notice on the 30th of March, 2007,  
at the offices of THE CLOON LAW FIRM, 11350  
Tomahawk Creek Parkway, Suite 100, Leawood,  
Kansas.

1 undoubtedly will occur, just let me know and  
2 I'll rephrase it.

3 Also, as I'm sure you've been told and  
4 you've had depositions before, I would ask that  
5 you let me finish my question before you answer  
6 it so that the court reporter has an easier time  
7 of recording what's said.

8 If you ever need to take a break during  
9 the deposition, just let us know and we'll take  
10 a break. This is not a marathon. However, for  
11 questions pending, I would ask that you answer  
12 the question before we take a break.

13 Do you know what company I represent in  
14 connection with this deposition today?

15 A. Trans Union.

16 Q. Okay. And do you understand that -- is  
17 it your understanding that this deposition is in  
18 a lawsuit that you brought against Trans Union?

19 A. Correct.

20 Q. Okay. What's your understanding of the  
21 claims that you have brought against Trans  
22 Union?

23 A. It's about the misrepresentation of the  
24 -- your product is deceptive.

25 Q. Trans Union's products you mean?

1 A. Well, the identity theft monitoring.

2 Q. What's deceptive about it, sir?

3 A. It says it protects you from identity  
4 theft.

5 Q. And you think that was an inaccurate  
6 statement?

7 A. Well, I don't think it protects from  
8 all forms of identity theft.

9 Q. And why do you believe that, sir?

10 A. Because my Social Security number was  
11 stolen.

12 Q. Was it stolen after you purchased the  
13 product from Trans Union?

14 A. It was stolen before.

15 Q. Okay. So, you couldn't -- you didn't  
16 expect the product that you purchased after your  
17 Social Security number was stolen would actually  
18 prevent the theft of that Social Security  
19 number, did you?

20 A. No. But I expect to find information,  
21 that's why we bought your product, we were  
22 expecting to find information about the other  
23 person using my Social Security number.

24 Q. Was there some information that you  
25 expected the product to give you that you didn't

1 get?

2 A. Could you repeat the question?

3 Q. Sure. Was there some information that  
4 you expected this product to give to you that  
5 you did not get?

6 A. Well, I expected to see the other  
7 person's accounts and, you know, what they  
8 bought, and all I saw was my stuff.

9 Q. Why did you expect to see information  
10 regarding the other person?

11 A. Well, we were just -- we were just  
12 looking for information. We were hoping to see  
13 something. We never saw anything.

14 Q. You and your wife have bought a number  
15 of credit monitoring products from a number of  
16 companies, right?

17 A. Yes, sir.

18 Q. And none of those products gave you the  
19 information that you're telling us today you  
20 expected to get, right?

21 A. Right.

22 Q. Why did you expect to get that  
23 information then?

24 A. Well, we should have got some kind of  
25 alert or something if you're monitoring my

1 credit.

2 Q. You talked this morning about some  
3 expectation you had about this product. Was it  
4 your decision to buy the product from Trans  
5 Union?

6 A. It was my wife's -- I mean, we agreed  
7 on it. My wife said this would help us out. I  
8 said okay, go ahead and buy it.

9 Q. And what did your wife tell you in that  
10 conversation as to why she thought you should  
11 buy the product?

12 A. Could you repeat the question, I'm  
13 sorry?

14 Q. Sure. I think you told me that your  
15 wife suggested that you buy the product and you  
16 agreed, right?

17 A. Right.

18 Q. Okay. What did she say to you, if  
19 anything, besides, Steven, we should buy this  
20 product?

21 A. She said we should buy this, this would  
22 help us out.

23 Q. Did she explain to you how she thought  
24 it would help you out?

25 A. No. But that's where I thought it

1 lawsuit, you have to file what's called a  
2 complaint?

3 A. Yeah.

4 Q. Okay. Have you ever seen a complaint  
5 that was filed on your behalf?

6 A. I think, yes.

7 Q. Okay. And you understand that in the  
8 complaint you have to describe facts, right?

9 A. Right.

10 Q. And you also have to identify the legal  
11 claims that you're asserting, do you understand  
12 that?

13 A. That's why I hired my lawyer, sir.

14 Q. Okay. But do you understand that a  
15 complaint has to describe the legal claims that  
16 you're asserting?

17 A. Right.

18 Q. Okay. And do you also understand that  
19 as part of a complaint, you have to tell the  
20 Court what you want the Court to do?

21 A. Right.

22 Q. The relief that you're seeking?

23 A. I understand.

24 Q. Okay. What relief are you seeking in  
25 the lawsuit that we're talking about today?

1 that it's not Trans Union's product, it's  
2 Truelink's product. Am I mistaken about that?

3 MR. O'NEIL: I'm asking your  
4 client about his knowledge. He told me it was a  
5 Trans Union product.

6 MR. CLOON: But you've misled him  
7 by saying it is a Trans Union product. He's  
8 stated on the record that he's got them all  
9 confused. He thinks Trans Union is a part of  
10 Truelink.

11 MR. O'NEIL: Okay. I'll withdraw  
12 the question, you know what, because it's a  
13 waste of time.

14 Q. (BY MR. O'NEIL) At some point in time,  
15 your wife went online and bought a credit  
16 monitoring product from either Trans Union or  
17 Truelink, right?

18 A. Correct.

19 Q. Okay. At that time, did you actually  
20 see the website pages she was looking at?

21 A. Yeah, I think it said protect me from  
22 identity theft.

23 Q. Uh-huh. What else did it say?

24 A. I can't recall.

25 Q. Okay.

1 A. I mean, that's the gist of it.

2 Q. And so when you and your wife read  
3 that, did you think, great, this product will  
4 protect us from identity theft?

5 A. Yes, sir.

6 Q. Okay. Of course, you were already a  
7 victim office identify theft, that's your  
8 position, right?

9 A. Yes, sir.

10 Q. Okay. Has anybody else stolen your  
11 identity since Mr. Perez did?

12 A. As far as I know, no.

13 Q. And, to your knowledge, has Mr. Perez  
14 opened up any other accounts since you first  
15 bought the product from Trans Union or Truelink?

16 A. I can't answer that, I don't know.

17 Q. Okay. So, as you sit here now, you  
18 don't have any evidence that there was any  
19 additional misuse of your Social Security number  
20 after your wife first bought the product?

21 MR. CLOON: I'm going to object  
22 to the form of the question. Lacks foundation.  
23 Calls for speculation.

24 A. Can you repeat the question?

25 Q. (BY MR. O'NEIL) I'll ask the court

1 reporter to repeat the question for you,  
2 Mr. Millett.

3 (Whereupon, the requested portion  
4 of the record was read by the reporter.)

5 MR. CLOON: Same objection.

6 A. Correct.

7 Q. (BY MR. O'NEIL) Okay. You also  
8 mentioned something about the KCPA. Do you  
9 recall saying that this morning?

10 A. Who?

11 Q. You also mentioned the Kansas Consumer  
12 Protection Act?

13 A. Right. Right.

14 Q. What's that?

15 A. It's a law.

16 Q. Do you know anything more about it?

17 A. Well -- it's the Consumer Protection  
18 Act, that's about all I know.

19 Q. Okay. You also said that you wanted to  
20 have your money returned?

21 A. Right.

22 Q. What money do you want to have returned  
23 to you?

24 A. What we paid for the product.

25 Q. The full amount that you paid for the

1 product you want returned to you?

2 A. Well, it doesn't work, so we want our  
3 money back.

4 Q. Did you ever ask Trans Union or  
5 Truelink for a refund?

6 A. Not me personally, no.

7 Q. Has somebody else?

8 A. Well, my wife has.

9 Q. Really? When did she do that?

10 A. Well, I think she's did that. I  
11 can't --

12 Q. Okay, well, your lawyer a couple times  
13 this morning said calls for speculation, I don't  
14 want you to speculate. I'm asking, do you have  
15 any knowledge that anybody --

16 A. My wife handled that.

17 Q. So you don't have any knowledge then?

18 A. Yes, sir.

19 Q. Okay. So, as far as you know, you've  
20 never asked Trans Union or Truelink for a  
21 refund, right?

22 A. Correct.

23 Q. And at some point in time, you and your  
24 wife decided that this product doesn't -- it  
25 doesn't work, right?

1 A. Yes, sir.

2 Q. And did you immediately cancel your  
3 product?

4 A. You have to ask my wife that.

5 Q. Well, I'm asking you, sir. Once you  
6 came to this conclusion that this product  
7 doesn't work and that you want your money back,  
8 did you -- and you don't know if you ever asked  
9 for the money back, but I'm asking you now, did  
10 you ever cancel the product?

11 A. You'll have to ask my wife that.

12 Q. I'm asking you, sir.

13 A. I don't know. I don't know.

14 Q. Isn't it true, Mr. Millett, that to  
15 this day, you're still paying money to Truelink  
16 for the product that you're now claiming doesn't  
17 work?

18 MR. CLOON: Objection.

19 Argumentative. But you may answer.

20 A. I don't know.

21 Q. (BY MR. O'NEIL) So, as you sit here  
22 today, you don't know if you are still buying  
23 this product; is that right?

24 A. That's right.

25 Q. Did you ever have a conversation with

1 your wife since you first filed these lawsuits  
2 in 2004 and asked her are we still paying money  
3 for these products?

4 A. I've never asked her.

5 Q. Did you ever have any conversation with  
6 your wife since July of 2004 where the two of  
7 you said the product we got from Trans Union or  
8 Truelink, it doesn't work? Did you ever have  
9 that conversation with her?

10 A. I think in general terms we had  
11 conversations about all the consumer products.

12 Q. Okay. Right now I'd just like to focus  
13 your attention on the product, the credit  
14 monitoring product --

15 A. I don't recall.

16 Q. Okay. So, you don't recall having a  
17 conversation with your wife after you bought the  
18 product where you said it doesn't work; is that  
19 right?

20 A. Yes.

21 Q. Did you ever have a conversation with  
22 your wife at any time since you first bought the  
23 product where the two of you discussed the fact  
24 that the marketing was deceptive?

25 A. I think we've had conversations about

1 that quite a bit.

2 Q. Okay. And in the context of those  
3 conversations, did you ever say, well, we  
4 shouldn't continue paying for that product then?

5 A. I don't think we ever had a  
6 conversation like that.

7 Q. Okay. In fact, your wife believes the  
8 products are helpful, right?

9 MR. CLOON: Objection. Calls for  
10 speculation.

11 A. So what do I think?

12 Q. (BY MR. O'NEIL) I'm asking --

13 A. Is that what you're asking me?

14 Q. No, I'm asking what your wife thinks.  
15 Isn't it true that your wife believes these  
16 products are helpful?

17 A. Well, you'll have to ask her that  
18 question.

19 Q. Sir, I'm asking you now.

20 A. Well, I don't know what she thinks all  
21 the time.

22 Q. Okay. Well, actually, I'm not asking  
23 about all the time or anything, I'm asking about  
24 one particular topic. Which is that the product  
25 which is the basis for the lawsuit against my

1 to this line of questioning as being totally  
2 irrelevant to the issues in this case.

3 Q. (BY MR. O'NEIL) You can answer.

4 A. Can you repeat the question?

5 Q. Sure.

6 MR. O'NEIL: Could you please  
7 repeat the question, Ms. Court Reporter?

8 (Whereupon, the requested portion  
9 of the record was read by the reporter.)

10 MR. CLOON: Same objection and  
11 lacks foundation.

12 A. Yeah. Yes, sir.

13 Q. (BY MR. O'NEIL) Why do you think the  
14 Court should permit you to represent all those  
15 other credit monitoring customers, instead of  
16 having them represent themselves?

17 A. We bought the product just like  
18 everybody else.

19 Q. And you made the decision that you  
20 thought the product was defective and you sued  
21 Truelink, right?

22 A. Yes, sir.

23 Q. And now you want to make that decision  
24 for everybody else who bought the product; isn't  
25 that correct?

1 A. Yes, sir.

2 Q. But you haven't talked to any of those  
3 people, right?

4 A. Well, maybe they don't know.

5 Q. You haven't talked to any of those  
6 people, right?

7 A. No, I haven't talked to all your  
8 customers.

9 Q. So you don't know whether or not they  
10 have the same complaints that you allegedly have  
11 about the product, right?

12 A. I don't think they're aware of what the  
13 product does and does not do.

14 Q. Uh-huh. When you first bought the  
15 product from Truelink, you and your wife had a  
16 conversation where you both agreed you're going  
17 to buy it, correct?

18 A. Yes, sir.

19 Q. Do you understand that additional  
20 products have been purchased from Truelink by  
21 your wife since that time?

22 A. No, I'm not aware of that.

23 Q. Okay. So, as far as you know, there  
24 was just the one product that you agreed to buy  
25 at the very beginning, right?

1 A. Yes, sir.

2 Q. Okay. And that was a credit monitoring  
3 product?

4 A. Yes, sir.

5 Q. Did you buy anything else at that time  
6 from Truelink?

7 A. Not that I'm aware of.

8 Q. Okay. And that was a product that was  
9 -- that provided you with information over a  
10 period of time, right?

11 A. Right.

12 Q. Okay. And how long a period of time  
13 did that last?

14 A. I don't know. You said it's ongoing,  
15 so we must still have it then.

16 Q. And as part of your -- the credit  
17 monitoring product you bought, e-mails were sent  
18 from Truelink to your home, right?

19 A. Right.

20 Q. And, in fact, they weren't sent to your  
21 e-mail address, but to you're wife's e-mail  
22 address?

23 A. Correct.

24 Q. Okay. Did you ever see any of those  
25 e-mails?

1           A.    I think maybe I saw one.  Everything is  
2 honky-dory.

3           Q.    Do you know how often your wife  
4 received those e-mails?

5           A.    No, I can't answer that, I don't know.

6           Q.    Did you ever ask her, ask your wife, if  
7 she ever got more than one e-mail from Truelink?

8           A.    No.  I don't recall asking her that.

9           Q.    Do you know when you purchased the  
10 credit monitoring service from Truelink?

11          A.    I can't give you exact date.

12          Q.    Can you give me a rough date?

13          A.    I think it was like after the police  
14 report or some time around there.

15          Q.    Okay.

16          A.    In general.

17          Q.    Do you know what year that was?

18          A.    I think it was 2003, I think.

19          Q.    And you told us today that you think  
20 the product that Truelink sold to you doesn't  
21 work, right?

22          A.    Yes, sir.

23          Q.    And could you tell me in what ways the  
24 product doesn't work?

25          A.    Doesn't tell you if somebody's using

1 no longer in this lawsuit, so they're totally  
2 irrelevant.

3 Q. (BY MR. O'NEIL) Have you ever heard of  
4 something called a Credit Repair Organization?

5 A. No.

6 MR. CLOON: Same objection.

7 Q. (BY MR. O'NEIL) Are you aware that your  
8 lawyers claim that Truelink violated the Credit  
9 Repair Organizations Act?

10 MR. CLOON: Same objection.  
11 Those claims have been dismissed. They're no  
12 longer in this lawsuit and they're totally  
13 irrelevant.

14 Q. (BY MR. O'NEIL) Are you aware that your  
15 lawyers filed a claim against Truelink alleging  
16 that Truelink has violated the Credit Repair  
17 Organizations Act?

18 MR. CLOON: Same objection.

19 A. No.

20 Q. (BY MR. O'NEIL) To your knowledge, have  
21 you ever been denied credit based upon  
22 information prepared by Truelink?

23 A. I wouldn't know.

24 Q. I'm sorry?

25 A. I don't know.

1 your Social Security number.

2 Q. Any other problems that you have with  
3 the product?

4 A. Well, it says it's supposed to protect  
5 me from identity theft, I'm not even sure it  
6 does that.

7 Q. So you don't know? It may, but you  
8 don't know; is that right?

9 A. Yes, sir.

10 Q. Okay. And to your knowledge, you  
11 haven't been the victim of identity theft, other  
12 than this use by Mr. Perez of your Social  
13 Security number, right?

14 A. That's correct.

15 Q. Okay. Any other problems that you have  
16 with the Truelink credit monitoring service?

17 A. I think you should change your  
18 advertising.

19 Q. So, you're not happy with the  
20 advertising, right?

21 A. Correct.

22 Q. Okay. But you haven't seen the  
23 advertising since that very first day in 2003  
24 since you looked at it, right?

25 A. Correct.

1 Q. So you don't know if you have any  
2 problem with the advertising that's occurred  
3 since that date, right?

4 A. Right.

5 Q. Have you ever had any conversations  
6 with your wife about the advertising?

7 A. Yeah, that they should change it.

8 Q. Okay.

9 MR. O'NEIL: Well, looks like we  
10 need to change the tape, so let's go off the  
11 record.

12 VIDEOGRAPHER: We are now going  
13 off the record at 9:56 AM.

14 (Recess.)

15 VIDEOGRAPHER: It is now 9:58 AM  
16 and we are back on the record. You may  
17 continue.

18 Q. (BY MR. O'NEIL) Mr. Millett, have you  
19 ever heard of something called the Credit Repair  
20 Organizations Act?

21 A. No.

22 Q. Okay. Have you ever heard of something  
23 called a Credit Repair Organization?

24 MR. CLOON: I'm going to object  
25 to this line of questioning. Those claims are

1 to Mr. Perez?

2 A. I wouldn't know that.

3 Q. Well, you and your wife have done a  
4 detailed investigation over the last five years  
5 regarding that very topic, right?

6 A. My wife has.

7 Q. Okay. And did she tell you the results  
8 of that investigation?

9 A. Can you repeat the question?

10 Q. Sure. Are you aware whether or not  
11 your credit history information maintained by  
12 one of the three credit bureaus has ever been  
13 accessed by someone who was considering a credit  
14 application of Mr. Perez?

15 A. No. I don't know that.

16 Q. Okay. To your knowledge, has -- well,  
17 strike that.

18 Let me direct your attention to Page 4  
19 of that exhibit, Mr. Millett. Top of Page 4 is  
20 Paragraph 14. Could you read that to yourself,  
21 sir, and let me know when you're done reading  
22 it?

23 A. Okay.

24 Q. Do you recall getting home loan  
25 financing in approximately 1998?

1 to Mr. Perez?

2 A. I wouldn't know that.

3 Q. Well, you and your wife have done a  
4 detailed investigation over the last five years  
5 regarding that very topic, right?

6 A. My wife has.

7 Q. Okay. And did she tell you the results  
8 of that investigation?

9 A. Can you repeat the question?

10 Q. Sure. Are you aware whether or not  
11 your credit history information maintained by  
12 one of the three credit bureaus has ever been  
13 accessed by someone who was considering a credit  
14 application of Mr. Perez?

15 A. No. I don't know that.

16 Q. Okay. To your knowledge, has -- well,  
17 strike that.

18 Let me direct your attention to Page 4  
19 of that exhibit, Mr. Millett. Top of Page 4 is  
20 Paragraph 14. Could you read that to yourself,  
21 sir, and let me know when you're done reading  
22 it?

23 A. Okay.

24 Q. Do you recall getting home loan  
25 financing in approximately 1998?

1 A. That's when I was in Phoenix, yeah.

2 Q. Okay. And do you recall that the terms  
3 of that home loan financing were less favorable  
4 than you wanted them to be?

5 A. Right. I remember that, yeah.

6 Q. And do you have any reason to believe  
7 that the reason why those terms were less  
8 favorable was because of Mr. Perez's use of your  
9 Social Security number?

10 A. Okay, repeat the question again.

11 Q. It was a long question.

12 A. I'm sorry.

13 Q. No, you don't have to apologize, it was  
14 a long question. Paragraph 14 states, and I'm  
15 paraphrasing here, that you agreed to home loan  
16 financing on less favorable terms, quote,  
17 "because you and your wife were unaware that the  
18 fraudulent use of Plaintiff Steven Millett's  
19 Social Security number and the identity theft  
20 had adversely impacted their credit histories,  
21 credit reports and credit scores," closed quote.  
22 Do you see that?

23 A. Yes, sir.

24 Q. Do you have any reason to believe that  
25 Mr. Perez's use of your Social Security number,

1 Q. For what purpose?

2 A. I can't remember.

3 Q. Were you present when your wife wrote  
4 the handwritten notes on the third page of this  
5 document?

6 A. Yes.

7 Q. And was that at the police station?

8 A. Yes.

9 Q. There's some handwriting on the very  
10 first page. Do you see that, sir? In the  
11 middle there, I know there's handwriting at the  
12 top, but in the middle of the page there's some  
13 handwriting on the side. Do you see that?

14 A. Yeah, Byron.

15 Q. Right. Do you know whose handwriting  
16 that is?

17 A. No. I'm not sure.

18 Q. Okay. Let me direct your attention,  
19 Mr. Millett, back to the other document, the  
20 Ford Motor complaint.

21 A. All right.

22 Q. And I'd ask you to go to Page 6. This  
23 is Paragraph 32. Paragraph 32 on Page 6 states,  
24 quote, "From January 2003 to the present date,  
25 Plaintiffs have been forced to expend numerous

1 hours and their own funds in order to close  
2 multiple accounts opened by fraud and to monitor  
3 the conduct of Defendant and individuals and  
4 entities who extend credit or utilize  
5 information provided by Defendant." Do you see  
6 that, sir?

7 A. Yes, sir.

8 Q. Did you or your wife ever have to close  
9 multiple accounts opened by fraud?

10 A. Can you repeat that?

11 Q. Well, it says here that you and your  
12 wife, quote, "have been forced to expend  
13 numerous hours and their own funds in order to  
14 close multiple accounts opened by fraud." Do  
15 you see that?

16 A. Yes, sir.

17 Q. You never had to close multiple  
18 accounts opened by fraud, did you?

19 A. My wife handled that.

20 Q. She never had to close multiple  
21 accounts opened by fraud, did she?

22 A. I don't think I can answer that. I  
23 don't know.

24 Q. Do you have any idea what that's  
25 referring to?

1 A. I can tell you what I think.

2 Q. Please do.

3 A. That she had to close the accounts  
4 opened by Mr. Perez.

5 Q. Did she ever tell you that?

6 A. I know she was working on that.

7 Q. Did she ever close accounts that  
8 somebody else had opened?

9 A. She was trying to close down those  
10 Abundio accounts that Trans Union sent from that  
11 letter.

12 Q. Did she ever succeed?

13 A. I think she did on most of them.

14 Q. So, it's your understanding that your  
15 wife succeeded in closing credit accounts that  
16 Mr. Perez had with other companies?

17 A. Yes, sir.

18 Q. Okay. And what's the basis for that  
19 understanding? Is it because your wife told you  
20 that?

21 A. Because she was calling up people on  
22 the phone.

23 Q. Well, I understand she was calling  
24 people on the phone. But my question is, did  
25 she actually close accounts?

1 A. Right.

2 Q. Okay. Did she tell you how "The New  
3 York Times" came to make a decision to do an  
4 article on you?

5 A. No.

6 Q. Okay. So, did she contact "The New  
7 York Times" and suggest to them that they do an  
8 article?

9 A. I have no idea.

10 Q. Okay. What was your reaction to your  
11 wife's news that "The New York Times" was going  
12 to write an article on you and your wife?

13 A. How did I feel?

14 Q. Yeah.

15 A. I felt okay with it. I wasn't angry or  
16 I wasn't, you know, it didn't bother me any  
17 that...

18 Q. Okay. What else did you do -- going  
19 back to my earlier question. So, in January of  
20 2003, you discover for sure that somebody else  
21 is using your Social Security number, right?

22 A. Yes, sir.

23 Q. And you filed a police report, right?

24 A. Right.

25 Q. What else did you do to investigate

1 this misuse of your Social Security number?

2 A. I can't remember.

3 Q. Well, did you do anything yourself to  
4 investigate?

5 A. I think I turned it all over to my  
6 wife.

7 Q. Why did you do that?

8 A. Because she's better at numbers,  
9 remembering.

10 Q. Were you concerned when you discovered  
11 that this gentleman was using your Social  
12 Security number?

13 A. Yes, sir.

14 Q. And what were you concerned about?

15 A. He was just out there buying up the  
16 world.

17 Q. Do you recall that you and your wife  
18 decided you had to look at your credit reports  
19 now that you've learned somebody was using your  
20 Social Security number?

21 A. Right.

22 Q. Okay. And did you do that?

23 A. I think my wife did.

24 Q. Okay. And she got credit reports from  
25 each of the three major credit bureaus, right?

1 A. Right.

2 Q. Okay. Did you ever look at those  
3 credit reports?

4 A. I, yeah, I -- I don't see anything,  
5 remember anything specific, but I think I looked  
6 at them.

7 Q. And what was your purpose in looking at  
8 those credit reports?

9 A. I was just seeing if there was Abundio  
10 Perez anywhere.

11 Q. Was there?

12 A. No, not that I recall, no.

13 Q. So you got credit reports from Trans  
14 Union, Experian and Equifax, right?

15 A. Right.

16 Q. Okay. And none of those credit reports  
17 had any mention of Mr. Perez, right?

18 A. As far as I know, right.

19 Q. And none of those credit reports had on  
20 them credit accounts that were Mr. Perez's,  
21 right?

22 A. As far as I know, yes.

23 Q. And none of those credit reports  
24 indicated that your credit report had been  
25 accessed by somebody who was considering giving

1 Q. And you don't recall seeing any  
2 evidence of that fact, correct?

3 A. Correct.

4 Q. So, did that kind of put you at ease a  
5 little bit that your credit report had not been  
6 impacted by Mr. Perez's use of your Social  
7 Security number?

8 MR. CLOON: I'm going to object  
9 to the form of the question. Misstates the  
10 evidence as to whether or not --

11 Q. (BY MR. O'NEIL) You can answer.

12 MR. CLOON: -- the credit report  
13 was impacted.

14 MR. O'NEIL: You know what, save  
15 the argument for trial. Let's just get the  
16 facts here.

17 MR. CLOON: Well, you know what,  
18 Mike, I'm just trying to protect the record.

19 MR. O'NEIL: Right.

20 MR. CLOON: And I don't know what  
21 the term "impacted" means. I mean, that's vague  
22 and ambiguous.

23 MR. O'NEIL: You know what, I'll  
24 withdraw -- vague and ambiguous is probably a  
25 good objection, so I'll withdraw the question.

1 earlier, Mr. Millett, that when your wife first  
2 purchased the credit monitoring product from  
3 Truelink, that you were kind of -- you looked at  
4 some of the marketing that was on the website at  
5 that time? Or maybe I'm wrong. You know --  
6 strike.

7 A. I think --

8 Q. Go ahead.

9 A. Yeah, I think I said that.

10 Q. Okay. So, she, Mrs. Millett, purchased  
11 the product over the internet, right?

12 A. Correct.

13 Q. And did she do it from her computer at  
14 home?

15 A. Right.

16 Q. And were you sitting there with her in  
17 front of the computer at the time?

18 A. I was sitting behind her.

19 Q. Okay. Why was it that you were sitting  
20 with her while she was buying the product?

21 A. Because I was on my computer.

22 Q. Oh, I see. So you were in the same  
23 room, but you were doing stuff on your own  
24 computer?

25 A. Right.

1 Q. I see. So, you weren't really watching  
2 her go through each step of purchasing the  
3 product, were you?

4 A. No.

5 Q. Okay. Were you even looking at what  
6 she was doing at that time?

7 A. Well, I just kind of glanced over there  
8 and read some stuff, and then I walked back to  
9 my computer.

10 Q. What were you reading?

11 A. The -- what your opening statements  
12 were.

13 Q. You mean the statements on the website?

14 A. Well, telling what about what the  
15 product was, yeah.

16 Q. Okay. And why were you interested in  
17 looking at that?

18 A. Just to see what -- if you had any  
19 disclaimers in there what you did and didn't do.

20 Q. So, when you -- when your wife was  
21 purchasing the product for you, you were  
22 particularly interested in --

23 A. Oh, I was just reading the activity  
24 advertisement just seeing what you had in there.

25 Q. Okay. But you and your wife had

1 already purchased credit monitoring products  
2 from other companies, right?

3 A. Right.

4 Q. And so you were familiar with what the  
5 product was, right?

6 A. In general.

7 Q. Okay. And when your wife purchased the  
8 products from the other companies prior to  
9 purchasing it from Truelink, were you sitting  
10 looking at the information on the website during  
11 those earlier purchases?

12 A. I don't think so.

13 Q. Okay. What were you doing on the  
14 computer while your wife was purchasing the  
15 product?

16 A. I think I was playing some video game  
17 or something.

18 Q. Is there a reason why your wife was  
19 purchasing the product instead of you?

20 A. Why she was doing it?

21 Q. Right.

22 A. I just -- I think she was looking at it  
23 and she said it was -- it could help us.

24 Q. And do you recall that she provided her  
25 e-mail address instead of yours?

1 A. Right.

2 Q. When she purchased the products from  
3 Experian and Equifax, did she also give her  
4 e-mail address instead of yours?

5 A. Yeah.

6 Q. Okay. And that's why you only think  
7 you saw one e-mail from Truelink, right?

8 A. Right.

9 Q. Because they were going to your wife's  
10 e-mail address, not yours, right?

11 A. Right.

12 Q. Okay. Do you recall your wife asking  
13 you any questions while she was purchasing the  
14 product over the internet from Truelink?

15 A. No.

16 Q. Do you recall her saying anything to  
17 you during the process of her purchasing the  
18 product from Truelink?

19 A. I think all she said this would help  
20 us.

21 Q. Did she say how it would help you?

22 A. She said it would help us with this  
23 Abundio stuff.

24 Q. Now, at the time, you already knew that  
25 the Equifax product didn't give you any

1 information about Mr. Perez, right?

2 A. Right.

3 Q. And you already knew that the Experian  
4 product didn't give you any information about  
5 Mr. Perez, right?

6 A. Right.

7 Q. Did you and your wife have any  
8 conversations along the lines of, but we think  
9 Truelink will provide information about  
10 Mr. Perez?

11 A. I think we bought the other two to  
12 cross reference information.

13 Q. Okay. Well, you and your wife were  
14 disappointed -- or correct me if I'm wrong, this  
15 is a question -- were you and your wife  
16 disappointed that the Experian and Equifax  
17 products didn't give you any information about  
18 Mr. Perez's use of your Social Security number?

19 MR. CLOON: I'm going to object  
20 to the form of the question. Lacks foundation.  
21 There are no dates, times or places stated.

22 Q. (BY MR. O'NEIL) You can answer.

23 A. I wasn't happy.

24 Q. Okay. So, did you have any  
25 conversations with your wife prior to purchasing

1 the product from Truelink where you thought that  
2 Truelink would provide that information?

3 A. We didn't know.

4 Q. Okay, I understand you didn't know.

5 What I'm asking is, did you have any  
6 conversation with your wife prior to purchasing  
7 the product from Truelink where you discussed  
8 whether or not Truelink would provide the  
9 information that you were looking for?

10 A. I don't think we had a conversation  
11 like that, no.

12 Q. Did you ever ask your wife why are we  
13 buying the same product from another credit  
14 bureau?

15 A. I think that was the same time when she  
16 said it would help us.

17 Q. I understand that, sir. But did you  
18 ever question why you were buying the same  
19 product from a different credit bureau?

20 A. It was just a cross reference to see  
21 what the other two had.

22 Q. Were you ever concerned about the  
23 expense of these credit monitoring products that  
24 you were purchasing?

25 A. No.

1 Q. Okay. So, if in fact you were a victim  
2 of identity theft or if in fact as it appears  
3 this guy misused your Social Security number  
4 prior to August 2, 2003, you can't blame  
5 Truelink for that, right?

6 A. Right.

7 Q. And you don't have any evidence that  
8 there's been additional identity theft that has  
9 occurred since August 2nd, 2003, do you?

10 A. Right.

11 Q. Are there any other ways that you think  
12 Truelink's alleged failure to deliver what it  
13 promised has hurt you?

14 A. Well, I just -- I mean, if you said in  
15 your advertisement that this doesn't protect  
16 from Social Security fraud, then we probably  
17 wouldn't have bought it.

18 Q. Really? Is that your testimony today?  
19 That if Truelink had told you that we're only  
20 going to give you information in your credit  
21 report and not information in another person's  
22 report, that you wouldn't have bought the  
23 product; is that your testimony?

24 A. Well, it said it would protect me from  
25 identify theft.

1 Q. So --

2 A. I consider Social Security -- stealing  
3 my Social Security is an identity theft.

4 MR. O'NEIL: Could you please  
5 read back my question for the witness, and I'll  
6 ask him to answer that question?

7 (Whereupon, the requested portion  
8 of the record was read by the reporter.)

9 A. I'm not understanding.

10 Q. (BY MR. O'NEIL) Well, I understand that  
11 you haven't ever looked at the marketing of  
12 Truelink, other than some undefined page on the  
13 one date that your wife purchased the product,  
14 but. Do you understand during the course of  
15 your lawsuits against Trans Union, Truelink,  
16 Experian, Equifax, that all of those companies  
17 have explained that we only give you information  
18 about your credit report, and we only tell you  
19 about changes to your credit report? Do you  
20 understand that?

21 A. Okay.

22 Q. But did you understand that that's been  
23 the positions of the companies that you have  
24 sued?

25 A. Okay. Yeah.

1 Q. Okay. And do you understand that that  
2 was the basis, one of the bases for the Court in  
3 California dismissing some of the claims you  
4 brought against Experian?

5 A. Okay.

6 Q. Okay. So, go back to my original  
7 question. Are you saying that if you had been  
8 told by Truelink that we're only going to alert  
9 you to changes in your credit report, that you  
10 would not have bought the product?

11 A. I'm saying that if they would have said  
12 what this product does and doesn't do, then, I  
13 mean, we might have bought it and we might not  
14 have bought it. If it was all spelled up  
15 instead of with the broad statement, well, this  
16 is -- we protect you from identify theft.

17 Q. With all due respect, sir, you don't  
18 know what Truelink told you in August of 2003  
19 about their product, isn't that correct, because  
20 you didn't look at it?

21 MR. CLOON: I'm going to object.  
22 That's argumentative.

23 Q. (BY MR. O'NEIL) You can answer.

24 A. Can you ask that question again?

25 Q. With the exception of -- somehow this

1 thing you remember, you do remember that  
2 Truelink supposedly promised identity theft  
3 protection, right?

4 A. Yes, sir.

5 Q. Because that -- you do remember that  
6 one, right?

7 A. Right.

8 Q. Okay. You don't remember anything else  
9 that Truelink said, right, about the product?

10 A. That's right.

11 Q. That's the only thing you remember?

12 A. Right.

13 Q. So, if in fact Truelink had told you  
14 and your wife that you'll be getting weekly  
15 e-mail alerts about changes to your report and  
16 never suggested to you that you'd be getting  
17 information about other people's reports, you  
18 wouldn't know that because you didn't look at  
19 that information --

20 A. Right.

21 Q. -- isn't that correct? I'm sorry?

22 A. Right.

23 Q. Did your wife ever tell you, Steven,  
24 unlike those other guys, I think Truelink is  
25 going to give us information about Mr. Perez?

1 A. I don't ever recall her saying that,  
2 no.

3 Q. Do you ever recall her saying, Steven,  
4 I'm disappointed, I completely believed that  
5 Truelink was going to give us information --

6 A. I never --

7 Q. -- about Mr. Perez?

8 A. I don't remember her saying that.

9 Q. By the time you and your wife had  
10 decided to buy the Truelink product in August of  
11 2003, you and your wife had already hired  
12 lawyers, right?

13 A. I don't -- I think we hired Adler.

14 Q. Right. Did he ever suggest to you that  
15 you buy the product from all of the people who  
16 were selling credit monitoring products?

17 A. No.

18 MR. O'NEIL: I think this is a  
19 good time to take a break for lunch.

20 MR. CLOON: Okay.

21 VIDEOGRAPHER: We are now going  
22 off the record at 11:40 AM.

23 (Recess.)

24 VIDEOGRAPHER: It is now 1:08 PM  
25 and we are back on the record. You may

1 to whether or not you would have obligations to  
2 the other unnamed members of the class if you  
3 were to represent them?

4 A. I'm representing the whole class.

5 Q. Okay. And are you aware that if you  
6 are appointed to represent the class, are you  
7 aware of any duties that you would owe to that  
8 class?

9 A. I'd be responsible for them.

10 Q. Okay. Do you understand that you'd be  
11 responsible for making decisions in the lawsuit  
12 on their behalf?

13 A. Yes, sir.

14 Q. Okay. Are you seeking to represent  
15 other people who bought the credit monitoring  
16 product from Truelink who are victims of  
17 identify theft?

18 A. Yes, sir.

19 Q. And are you seeking to represent people  
20 who bought the Truelink product who are not  
21 victims of identity theft?

22 A. Well, I think whoever bought this, they  
23 didn't get -- it is deceptive from the get-go in  
24 my view.

25 Q. So you're seeking to represent all

1 purchasers of credit monitoring by Truelink,  
2 whether or not they were a victim of identity  
3 theft or not; is that right?

4 A. Exactly.

5 Q. Okay. Do you think that if you win  
6 this case and if you're appointed the class  
7 representative, that all members of the class  
8 should get the same money?

9 A. That's hard. I don't know how to  
10 answer that.

11 Q. Why not?

12 A. Well, I don't know what would be fair  
13 to the whole class. I don't know.

14 Q. Because it depends on the particular  
15 harm that each class member suffered, right?

16 A. Well, some of them could have been  
17 paying longer than others, I mean.

18 Q. And some may have actually, in theory  
19 if what you say is true, if your allegations are  
20 all proven true, some people may have suffered  
21 identity theft that they wouldn't have suffered  
22 if Truelink's product was as delivered -- was as  
23 promised; isn't that correct?

24 A. Right.

25 Q. Those people would really have damages,

1 wouldn't they?

2 A. Right.

3 Q. And you want to represent those people,  
4 right?

5 A. I want to represent the class, whoever  
6 signed up for this product.

7 Q. Well, isn't it fair to say that that  
8 kind of customer who suffered identity theft  
9 that really could have been prevented by  
10 Truelink, that they suffered more damages than  
11 somebody who never was a victim of identity  
12 theft?

13 A. I think it would have to be determined  
14 individual case by case.

15 Q. Do you recall answering written  
16 questions that were posed to you and your  
17 lawyers by Truelink in this case?

18 A. Right, my wife helped me with those.

19 Q. Okay, so you do recall it?

20 A. Yeah.

21 Q. Okay. How did your wife help you?

22 A. Well, she, like I said before, she  
23 handled most of this.

24 Q. Did she actually answer the  
25 interrogatories for you?

1 MR. O'NEIL: Sure.

2 VIDEOGRAPHER: We are now going  
3 off the record at 1:46 PM.

4 (Recess.)

5 VIDEOGRAPHER: One moment please.  
6 It is now 1:54 PM and we are back on the record.  
7 You may continue.

8 Q. (BY MR. O'NEIL) Mr. Millett, do you  
9 recall testifying this morning that you believed  
10 you did see one of the e-mails that Truelink  
11 sent to your wife?

12 A. I think so.

13 Q. And I think you said that it indicated  
14 that everything was honky-dory. Do you remember  
15 that?

16 A. Yes, sir.

17 Q. Okay.

18 (Millett Exhibit 7 was marked for  
19 identification by the reporter.)

20 Q. (BY MR. O'NEIL) Let me show you what's  
21 been marked Exhibit No. 7, which I'll represent  
22 to you are some pages that were produced by your  
23 lawyers in this case. And, for the record, it  
24 seems to be an e-mail from True Credit sent on  
25 October 5, 2003. Do you recall, is -- have you

1 ever seen this e-mail before?

2 A. I'll say this, it looks familiar.

3 Q. Okay. You don't know if you saw this  
4 particular e-mail dated October 5th, 2003?

5 A. Right. Right. Exactly.

6 Q. Do you recall that this was the content  
7 of the one e-mail that you did see that you  
8 described as --

9 A. I'd say --

10 Q. -- everything is honky-dory?

11 A. Yeah. Yes, sir.

12 Q. The e-mail is addressed to  
13 meadowmaiden@sbcglobal.net. Do you see that,  
14 sir?

15 A. Yeah.

16 Q. Is that your wife's e-mail address?

17 A. Yes, sir.

18 Q. Although the greeting says, "Dear  
19 Steven," right?

20 A. Yes, sir.

21 Q. And that's because your wife had  
22 indicated that all alerts regarding your credit  
23 report should be sent to that e-mail address,  
24 right?

25 A. Yes, sir.

1 Q. Okay. Let me just read the first  
2 paragraph to you. It says, quote: "During the  
3 last 30 days, no credit alerts have been  
4 triggered by changes to your credit report.  
5 This means you can have peace of mind knowing  
6 that according to Trans Union, one of the three  
7 national credit bureaus...", and then it lists  
8 five statements there. Do you see that, sir?

9 A. Yes, sir.

10 Q. So, the e-mail that you described as  
11 indicating everything was honky-dory, was that  
12 an e-mail that indicated there were no credit  
13 alerts on your file?

14 A. Yes, sir.

15 Q. Okay. So, Truelink further describes  
16 what it means to not have any credit alerts. It  
17 says: "One, no one has applied for credit in  
18 your name; two, no one has opened an account in  
19 your name; three, there were no lay payments  
20 recorded on your credit report; four, there were  
21 no bankruptcies or other public records posted  
22 to your credit reports; and, five, no one has  
23 changed your address with the credit bureaus."  
24 Do you see that, sir?

25 A. Yes, sir.

1 Q. Do you have any reason to believe that  
2 those five statements weren't accurate in  
3 October of 2003?

4 A. Yeah. That would be accurate.

5 Q. So, is it fair to say that this e-mail  
6 is describing changes, or the lack of changes,  
7 in your credit report?

8 A. Yes.

9 Q. Nowhere on this e-mail does it say that  
10 no one is using your Social Security number,  
11 does it?

12 A. No.

13 Q. When you read this type of e-mail, were  
14 you surprised that Truelink wasn't telling you  
15 what Trans Union had previously told you, that  
16 Mr. Perez had been using your Social Security  
17 number?

18 A. I'd think there would be some kind of  
19 alert.

20 Q. So, were you surprised when you didn't  
21 get that alert from Truelink?

22 A. Yeah. If somebody's using my Social  
23 Security number, I want to know about it.

24 Q. And you knew in October 2003 that  
25 somebody had been using your Social Security

1 number?

2 A. Yeah, but it wasn't showing up on here.

3 Q. So, did you realize then that this  
4 credit monitoring product is not going to tell  
5 you about things that occur outside of your  
6 credit report?

7 A. That's the conclusion I came to.

8 Q. And did you have a conversation with  
9 your wife at that point about that fact?

10 A. Yeah, something along those lines,  
11 yeah.

12 Q. Tell me about that conversation. What  
13 did you tell -- what did you say to her when you  
14 realized that just like Experian and Equifax,  
15 Truelink wasn't going to be telling you as part  
16 of their credit monitoring service that  
17 Mr. Perez was using your Social Security number?

18 A. That's the basic conversation right  
19 there.

20 Q. And what was your wife's response?

21 A. We didn't understand.

22 Q. So, did you suggest to her at that  
23 point that you might as well cancel this  
24 subscription?

25 A. I don't think we discussed that, no.

1 Q. Did you tell her, you know, Melody, I'm  
2 thinking that maybe this credit monitoring  
3 service only tells me about my credit report and  
4 not Mr. Perez's credit report?

5 MR. CLOON: Object to form.  
6 Leading and suggestive.

7 Q. (BY MR. O'NEIL) You can answer.

8 A. Can you repeat that, sir?

9 Q. Sure, I'll rephrase it. Did you  
10 suggest to your wife that if what you say is  
11 true, you were both mistaken in believing that  
12 the credit monitoring service would alert you to  
13 changes outside of your own credit report?

14 A. I think we were thinking that we'd see  
15 something on my credit report that he's out  
16 there charging stuff, that's what my assumption  
17 was.

18 Q. And you never saw those?

19 A. Right. Correct.

20 Q. So, your assumption was wrong, right?

21 A. Right.

22 Q. And you knew that pretty early on,  
23 didn't you?

24 A. We were just trying to compare  
25 information between the three credit

1 monitorings.

2 Q. And they were all the same, no -- none  
3 of those credit monitoring products by any of  
4 those companies ever told you that Mr. Perez was  
5 using your Social Security number; isn't that  
6 correct?

7 A. Yes.

8 Q. Did you continue to believe, however,  
9 that some day Truelink was going to provide that  
10 information to you?

11 A. Well, they shouldn't -- they shouldn't  
12 advertise that they'd protect me from identity  
13 theft, they just protect with name theft and  
14 credit card.

15 MR. O'NEIL: Could you restate  
16 the question for Mr. Millett? I'll ask you to  
17 answer the question.

18 (Whereupon, the requested portion  
19 of the record was read by the reporter.)

20 A. Through their credit monitoring?

21 Q. (BY MR. O'NEIL) Yes.

22 A. No.

23 Q. You realized you weren't going to get  
24 that information through any credit monitoring  
25 service, right?

1 A. Okay.

2 Q. Is it your belief, and I'm asking you  
3 as you sit here today under oath, is it your  
4 belief that you could not get credit because of  
5 the conduct of Truelink as alleged in your  
6 complaint?

7 A. I'd have to answer it's a mixture of  
8 things.

9 Q. So, it's you couldn't get credit  
10 because of things other than the conduct of  
11 Truelink?

12 A. I'd say it's all one big mess.

13 Q. What conduct of Truelink made it  
14 impossible for you to get credit?

15 A. I can't -- I don't know. I can't  
16 answer that.

17 Q. Were you ever denied credit?

18 A. I couldn't get some credit cards I  
19 think.

20 Q. You think? What credit cards could you  
21 not get?

22 A. I can't remember specifically which  
23 ones they were.

24 Q. Was this prior to August of 2003 that  
25 you couldn't get credit?

1 A. I don't remember when.

2 Q. What conduct of Truelink contributed to  
3 you not being able to get a credit card?

4 A. I don't know.

5 Q. Your answer also says, "We had to pay  
6 extra money for insurance, too." What insurance  
7 did you have to pay extra money for?

8 A. I think, I can't remember if it was All  
9 State.

10 Q. What kind of insurance is that, sir?

11 A. It's for the cars and the house.

12 Q. Okay. And why couldn't -- why did you  
13 have to pay extra money for insurance with All  
14 State?

15 A. Because my credit score wasn't as high  
16 as it should be.

17 Q. Okay. And was that because you didn't  
18 have many credit accounts?

19 A. No, I believe because of this Abundio.

20 Q. Do you have any evidence of that,  
21 Mr. Millett?

22 A. No, that's what I believe.

23 Q. What's the reason why you believe that  
24 Mr. Perez's conduct made your All State  
25 insurance more expensive?

1           A.     Because I feel like he lowered my  
2     credit score because he's out there charging  
3     stuff.

4           Q.     Is that your complete answer?

5           A.     Yeah, I guess so.   Yeah.

6           Q.     Do you think the conduct of Truelink  
7     somehow contributed to --

8           A.     I don't know.

9           Q.     Let me finish my question.   Do you  
10    think that the conduct of Truelink made your All  
11    State insurance more expensive?

12          A.     I don't know.   I can't answer that.

13          Q.     Well, actually, you did answer it and  
14    you said, yes.   You said that, yes, conduct of  
15    Truelink made you have to spend a lot more money  
16    to get insurance.   Are you withdrawing that  
17    statement now, sir?

18          A.     I think it all contributed.

19          Q.     You also state that you had to borrow  
20    money for your home from the family trust.   Do  
21    you see that, sir?

22          A.     Yes, sir.

23          Q.     Was the alleged failure of Truelink to  
24    deliver a credit monitoring product that you  
25    think they promised somehow require you to

1 borrow money from a family trust?

2 A. Can you repeat the question?

3 Q. Do you think that somehow Truelink's  
4 alleged failure to deliver a credit monitoring  
5 product that it allegedly promised, somehow  
6 required you to borrow money from your family  
7 trust?

8 A. I'd say yeah.

9 Q. And how did that -- why do you think  
10 that those two things are connected?

11 A. I think it's all connected.

12 Q. Sir, I'm not asking about all. I'm  
13 asking about the conduct alleged by Truelink.  
14 The failure of Truelink to deliver the product  
15 that you think it promised, how did that  
16 contribute to you having to spend -- you having  
17 to borrow money from a family trust?

18 A. Because I couldn't get a mortgage rate.

19 Q. And you think that that was because of  
20 some conduct by Truelink?

21 A. I can answer it this way, I think it's  
22 -- I think so, yeah.

23 Q. Okay.

24 MR. O'NEIL: We apparently have  
25 to change the tape, so let's go off the record.

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

STEVEN G. MILLETT, MELODY J.	)	
MILLETT, On Behalf of	)	
Themselves and All Others	)	
Similarly Situated,	)	Case No. 05-599-SLR
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
TRUELINK, INC., A Trans Union	)	
Company,	)	
	)	
Defendants.	)	
	)	
	)	

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VIDEOTAPED DEPOSITION OF KATE ANDERSON

San Luis Obispo, California

Tuesday, June 26, 2007

9:30 a.m. - 4:40 p.m.

Reported by: Lora L. Shoffstall, RPR, CSR 9271

EXAMINATION

BY MS. YEAGER:

Q. Good morning, Ms. Anderson.

A. Good morning.

(Plaintiffs' Exhibit 41 was marked for  
identification and is attached hereto.)

BY MS. YEAGER:

Q. I appreciate your flexibility as we videotape  
the deposition. Thank you very much for allowing us to  
do that, and thanks to counsel for that.

I'm going to mark as Exhibit 41 the notice of  
the videotaped deposition.

Have you ever been deposed before?

A. Once.

Q. And what matter was that?

A. Um, Townes versus TrueLink.

Q. And were you deposed as a company witness?

A. Yes.

Q. As a company witness.

MS. FRIEDMAN: I'm sorry. Can you clarify  
what you mean by that?

MS. YEAGER: As opposed to being an individual  
witness. You didn't --

Q. Did you testify as to your own knowledge or  
were you an authority B6 witness? Were you a

1 company-designated witness?

2 A. Yes.

3 MS. FRIEDMAN: Just for the record, I don't  
4 think that is reflected in the Townes record. I think  
5 she was individually identified.

6 BY MS. YEAGER:

7 Q. Are you employed by TrueLink?

8 A. Yes, I am.

9 Q. And has that company recently undergone a name  
10 change?

11 A. Yes, they have.

12 Q. And what is the new name?

13 A. TransUnion Interactive.

14 Q. Would it be okay with you for purposes of  
15 today's deposition if I continued to refer to the  
16 company as TrueLink?

17 A. Yes.

18 Q. I have not yet wrapped my mind around the name  
19 change.

20 A. That's fine.

21 Q. Thank you. Are you a corporate officer?

22 A. Yes.

23 Q. Are you a director?

24 A. I'm an officer. That would be classified, I  
25 think, as a director.

1 Q. And how long have you been a corporate  
2 officer?

3 A. Since January 2002.

4 Q. Is TrueLink now wholly owned by the TransUnion  
5 LLC?

6 A. Yes.

7 Q. And do you have any position on the board of  
8 TransUnion?

9 A. No, I do not.

10 Q. Who are the other corporate officers?

11 MS. FRIEDMAN: Of what company?

12 MS. YEAGER: I'm sorry. Of TransLink --  
13 TrueLink. I'm sorry.

14 Q. Who are the other corporate officers of  
15 TrueLink?

16 A. John Danaher is president. Scott Metzger is  
17 chief technology officer. Um, Pat Nieman is a vice  
18 president.

19 Q. Could you spell that last name, please?

20 A. N-i-e-m-a-n. Rob Siebert is a vice president.  
21 That's S-i-e-b-e-r-t. Did you want directors?

22 Q. Yes, please.

23 A. Um, Eleanor Wilson Dempsey, Brad Rubin, Eric  
24 McClung.

25 Q. Could you spell his last name, please?

1 A. Generally monthly.

2 Q. Do you know how long after a reporting entity  
3 provides credit information to TransUnion it is posted  
4 to a credit record?

5 A. No, I do not.

6 Q. How can consuming -- excuse me. How can  
7 purchasing the TransUnion credit monitoring unlimited  
8 improve a consumer's credit?

9 A. Improve a consumer's credit?

10 Q. Yes.

11 A. By -- by knowledge of what is in the report.  
12 For example, if there are inaccuracies that may be  
13 harming their credit, they would have the information  
14 to be able to dispute that information.

15 Q. Are all inaccuracies -- strike that. Who  
16 determines -- strike that. I think you already asked  
17 and answered that one.

18 Who generates the credit report pages that the  
19 consumer actually sees if they are purchasing the  
20 credit-monitoring product?

21 A. Who generates those?

22 Q. Yes.

23 A. The display of the information?

24 Q. Yes.

25 A. We do.

1 Q. Do you obtain the data from TransUnion?

2 A. Yes.

3 Q. Does the credit report that you display to a  
4 consumer have the same appearance as a credit report  
5 that would be purchased directly from TransUnion?

6 MS. FRIEDMAN: Objection. Lack of foundation.

7 THE WITNESS: A consumer?

8 MS. YEAGER: Could you read that back? Sorry.

9 (Record read.)

10 THE WITNESS: It appears slightly different.

11 BY MS. YEAGER:

12 Q. In what way?

13 A. Just the -- the -- the way that it's  
14 formatted. You know, we have our own display and our  
15 own -- you know, we have formatted the credit report  
16 ourselves.

17 Q. Does TransUnion provide free advertising for  
18 TrueLink products?

19 A. Free advertising?

20 Q. Yes.

21 MS. FRIEDMAN: Object to the form of the  
22 question.

23 THE WITNESS: Explain "advertising."

24 BY MS. YEAGER:

25 Q. Are -- are there advertisements available to

1 score. Typically it's TransUnion. So we would say the  
2 data is TransUnion's data, rather than Experian or  
3 Equifax. That's just an example.

4 Q. Do you -- did you -- pardon me. Did you make  
5 that particular change because there are legal  
6 restrictions in the way you can advertise --

7 A. No.

8 Q. -- free credit scores?

9 I need to mark Exhibit Number 45.

10 A. Uh-huh.

11 (Plaintiffs' Exhibit 45 was marked for  
12 identification and is attached hereto.)

13 BY MS. YEAGER:

14 Q. Is this part of the TrueLink training  
15 documentation?

16 A. It appears to be.

17 Q. And it appears to have a date of  
18 November 10th, 2004, does it not?

19 A. Yes, it does.

20 Q. This would indicate that TrueCredit.com is  
21 going to be taking over some of the online ordering  
22 process. Who is TrueCredit.com?

23 A. TrueCredit.com is a web site owned by TrueLink  
24 and --

25 Q. Does that mean that the TrueLink employees

1 were going to be taking over this particular aspect of  
2 ordering products?

3 A. This refers to the fact that we -- TrueLink  
4 will be providing the online credit reports on  
5 behalf -- consumer disclosures on behalf of TransUnion.  
6 It's nothing to do with TrueCredit.

7 Q. So these would be the consumer disclosures  
8 that someone would purchase directly from TransUnion?

9 A. Consumers.

10 Q. This makes reference to the FactAct. What  
11 impact did the FactAct have on the decision that  
12 TrueCredit would be taking over this process?

13 A. TrueCredit -- TrueLink. It has nothing to do  
14 with TrueLink -- TrueCredit.

15 Q. Thank you.

16 A. TrueLink specializes in online web  
17 applications, web site applications. That is our --  
18 our proficiency. TransUnion does not have that. They  
19 do not have other products and services that they do in  
20 such a manner. So FactAct provides every consumer with  
21 the ability to obtain a free annual disclosure of their  
22 information, and TransUnion simply does not have the  
23 prowess to do that. So we were engaged to do that on  
24 their behalf online only.

25 Q. Does this mean that you have access to

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

STEVEN G. MILLETT, MELODY J.	)	
MILLETT, On Behalf of	)	
Themselves and All Others	)	
Similarly Situated,	)	
	)	
Plaintiffs,	)	05-559-SLR
	)	
vs.	)	
	)	
TRUELINK, INC., A Trans Union	)	
Company,	)	
	)	
Defendant.	)	

THE VIDEOTAPED DEPOSITION OF  
JOHN DANAHER

Taken on behalf of the Plaintiff  
March 27, 2007

Reported by Cheryl L. Sandeck, CSR, RPR  
Illinois License No. 084-03710

1 company, which companies you work for or which  
2 company you work for and your position?

3 A. I'm the president of TransUnion  
4 Interactive.

5 Q. And could you briefly describe your job  
6 responsibilities?

7 A. I'm responsible for the sale -- sales,  
8 marketing, operations and technology for the  
9 company.

10 Q. For all of TransUnion?

11 A. For TransUnion Interactive.

12 Q. And what is the relationship of TransUnion  
13 Interactive with the defendant TrueLink, Inc.?

14 A. It's the successor company. In 2006 the  
15 name was changed from TrueLink, Inc., to TransUnion  
16 Interactive, Inc.

17 Q. Was there a change of corporate ownership  
18 or merely a name change?

19 A. A name change.

20 Q. And what was the reason for the name  
21 change?

22 A. The name change was done primarily to --  
23 as -- as a way of more closely associating  
24 ourselves with TransUnion for financial services  
25 clients.

1 Q. And what services do you perform for  
2 financial services clients?

3 A. We sell products to them, Credit  
4 Monitoring, Credit Reports, Credit Scores, which  
5 they, in turn, sell to their customers.

6 Q. And how long have you been with TrueLink,  
7 Inc., or TU Interactive?

8 A. It will be six years next month.

9 Q. And how long have you been a director?

10 A. I started as the chief operating officer,  
11 and in 2004 I became the president.

12 MR. O'NEIL: I want to lodge a late  
13 objection about assumes facts not in evidence,  
14 lack of foundation as to the earlier question.

15 BY MS. YEAGER:

16 Q. Were you employed by TrueLink, Inc., prior  
17 to your employment with TU Interactive?

18 A. Yes.

19 Q. Were your job responsibilities similar?

20 A. Yes.

21 Q. How was your position as chief operating  
22 officer different than your time as president?

23 A. As chief operating officer, I had  
24 responsibility for product development, marketing  
25 and operations. I didn't have responsibility for

1 consumers who was concerned about identity theft?

2 MR. O'NEIL: Objection, vague. TrueCredit  
3 product?

4 THE WITNESS: We have -- we have different  
5 products. Some are more relevant to certain  
6 instances than others.

7 BY MS. YEAGER:

8 Q. Is any one of your products more helpful  
9 to those who have a concern about identity theft  
10 than some of your other products?

11 A. Credit Monitoring.

12 Q. And why is Credit Monitoring helpful to  
13 those who are interested in addressing their  
14 concern about identity theft?

15 A. It alerts the consumer to key changes on  
16 their credit report, the most germane being a new  
17 inquiry or a new account opening.

18 Q. What is a key change?

19 A. A key change is the term we use to  
20 describe, I think, the eleven different changes  
21 that we alert consumers to in terms of their credit  
22 report.

23 Q. What are those eleven changes, please?

24 A. I don't think I can name them all.

25 Q. Could you generally describe the manner in

1 which one -- let me begin again, please.

2 Can you generally describe the manner in  
3 which the credit monitoring product alerts a  
4 consumer to the key changes?

5 A. Do you mean to describe the process?

6 Q. Please.

7 MR. O'NEIL: The process for alerting the  
8 consumer of the key change?

9 MS. YEAGER: Correct.

10 THE WITNESS: We are notified from one of  
11 the credit bureaus that a change has taken  
12 place, and we send the customer an E-mail  
13 advising them that there has been a change and  
14 to come back onto our website to get the  
15 details.

16 BY MS. YEAGER:

17 Q. The customer who comes to the website to  
18 review the details, could you generally describe  
19 what information they might see once they take that  
20 step to come onto the website to review the changes  
21 or the details that you were describing?

22 A. So, for example, if we send -- if there  
23 has been a new inquiry, if you log onto the site,  
24 you will see generally the date of the inquiry and  
25 who made the inquiry. You might get the location.

1 Q. The location of what, please?

2 A. Of -- of the person who has made the  
3 inquiry, their -- their address, where they are.

4 Q. How does that information become  
5 accessible? I am looking if you can generally  
6 describe, please, from the manner in which the data  
7 that the consumer reviews is placed onto the  
8 website. Is that placed there by someone from your  
9 company?

10 A. We use a service with all three credit  
11 bureaus now that they daily will put a file out  
12 there of the changes. We pick up the file from  
13 each of them and process it, put it on our website  
14 and send out the notification.

15 Q. Could you describe generally what you mean  
16 when you say you process it?

17 A. We change it from the format that we pick  
18 it up in, which is generally what's referred to as  
19 a machine readable format. And I believe we  
20 transform that into a -- you know, an XML format  
21 and we do what we call -- we normalize it. In  
22 other words, we make it readable. And then again  
23 we post it to the site and send a notification.

24 Q. How long have you been monitoring or  
25 receiving notification from three credit bureaus?

1 A. Since 2005.

2 Q. Prior to that time, did you only use one  
3 credit bureau?

4 A. Yes.

5 Q. What was that credit bureau?

6 A. TransUnion.

7 Q. What was the reason that you only used  
8 TransUnion reports prior to 2005?

9 A. Yeah, a combination -- probably a  
10 combination of -- you know, we didn't have the  
11 resources to build that particular product out. So  
12 it was something that we wanted to get to, but we  
13 weren't able.

14 I think the other reason was contractually  
15 we had to make agreements with Equifax and Experian  
16 to make the service available. And I don't think  
17 those were concluded until 2004, if I'm not  
18 mistaken.

19 So once we had the contractual -- excuse  
20 me, the -- you know, the means to get the data from  
21 the other two, it was probably about a year or year  
22 and a half later that we put the product out there.

23 Q. Does your company pay a fee to the credit  
24 bureaus when they obtain a credit report?

25 MR. O'NEIL: Objection, vague. That --

1       that second they I don't know who you are  
2       referring to, when they obtain a credit  
3       report.

4       MS. YEAGER: Thank you.

5 BY MS. YEAGER:

6       Q. Does your company pay a fee to a credit  
7       bureau when it obtains one of the credit bureau's  
8       credit reports?

9       A. Yes.

10      Q. Is that a flat fee per report order?

11      A. To TransUnion we pay a flat fee per year  
12      for an unlimited number of reports. To Equifax and  
13      Experian we pay per report.

14      MR. O'NEIL: Do you want something to  
15      drink?

16 BY MS. YEAGER:

17      Q. When was TrueLink established? When was  
18      it founded?

19      MR. O'NEIL: Objection, vague, lack of  
20      foundation.

21      THE WITNESS: In 1995.

22 BY MS. YEAGER:

23      Q. At that time was it a subsidiary of  
24      another company?

25      A. No.

1 Q. Did it ever have a relationship with  
2 Lehman Brothers, L-E-H-M-A-N?

3 A. Yes.

4 Q. What was its relationship with Lehman  
5 Brothers?

6 MR. O'NEIL: Objection, vague as to time.

7 BY MS. YEAGER:

8 Q. What was its affiliation or association  
9 with Lehman Brothers in 1995?

10 A. It had no association in 1995.

11 Q. Was there a time when it came to be  
12 affiliated or associated with Lehman Brothers?

13 A. Yes.

14 Q. What year was that?

15 A. In 2000, I believe.

16 Q. And what was its affiliation? Was there a  
17 product offered together?

18 A. No. Lehman Brothers purchased the  
19 majority ownership of TrueLink, Inc. I believe  
20 that was completed in 2000. It might have been  
21 late 1999.

22 Q. Does Lehman Brothers still have a majority  
23 ownership of TrueLink, Inc.?

24 A. No.

25 Q. Who now has a majority ownership of

(Document marked as TrueLink  
Exhibit No. 6 for  
identification, 03/27/2007.)

BY MS. YEAGER:

Q. Without discussing anything that you might  
have learned about this document from your counsel,  
have you otherwise seen this document before?

A. No.

Q. And have you reviewed this document with  
your counsel?

A. I don't think so.

Q. Are you familiar with the policies of  
TransUnion when a victim requests that a  
consumer -- let me rephrase that.

Are you familiar with the policies of  
TransUnion when an identity theft victim requests  
investigation by TransUnion about the information  
in their credit file?

A. You know, no, just generally.

Q. What generally do you know about that?

A. They will do some type of investigation or  
checking, interview the customer as to the facts  
and then try and help the customer to resolution.

Q. Would one have to be a customer of your  
company in order to receive that service from

1 TransUnion?

2 A. No.

3 Q. If one of your customers were to notify  
4 you that they were a victim of identity theft and  
5 saw errors on their credit report, what is your  
6 policy?

7 A. We refer that customer to the fraud  
8 victims assistance department in Fullerton.

9 Q. And you began doing that in 2003, I recall  
10 your testimony; is that correct?

11 A. Yes.

12 Q. And what did you do prior to 2003?

13 A. If we thought they were a victim of  
14 identity theft, we referred them to PromiseMark.

15 Q. And if you did not think they were, what  
16 did you direct them to do?

17 A. Well, when somebody says -- calls us and  
18 asks -- says I think I'm a victim of identity  
19 theft, we ask them a couple of questions to  
20 determine if they are a victim or not.

21 Q. What sorts of questions?

22 MR. O'NEIL: Objection, lack of  
23 foundation.

24 THE WITNESS: For example, somebody may  
25 call and say I think I have been a victim of

1 account were opened utilizing a consumer's  
2 Social Security number?

3 MR. O'NEIL: Objection, calls for  
4 speculation, vague.

5 THE WITNESS: Yeah, I can't -- I don't  
6 know what a consumer would think about that or  
7 -- or not.

8 BY MS. YEAGER:

9 Q. If you purchased the product for yourself,  
10 would you expect someone to notify you if a  
11 judgment was entered which recorded your  
12 Social Security number?

13 MR. O'NEIL: Objection. What product?

14 THE WITNESS: Not unless it was under my  
15 name.

16 BY MS. YEAGER:

17 Q. Would you as an individual person consider  
18 it identity theft if someone were utilizing your  
19 Social Security number?

20 A. No.

21 Q. Why not?

22 A. I mean, you -- you asked a very specific  
23 question --

24 Q. Yes.

25 A. -- using your Social Security number. I

1 define identity theft as somebody using your  
2 personal information for, you know, fraudulent  
3 purposes, including -- you know, criminal financial  
4 gain. In other words, opening credit accounts in  
5 your name and then using those accounts to enrich  
6 themselves.

7 Q. Does -- is it a federal crime to use  
8 someone else's Social Security number?

9 A. I don't -- I don't know.

10 Q. Does the FTC provide publications which  
11 indicate that using someone else's Social Security  
12 number is illegal?

13 A. I don't know.

14 Q. If TransUnion were aware that a judgment  
15 had been entered using you, your own personal  
16 Social Security number, would you want TransUnion  
17 to notify you?

18 A. Do you mean on a -- on somebody else's  
19 file?

20 Q. If another individual were using your  
21 personal Social Security number, would you want  
22 TransUnion to notify you?

23 A. Using it how?

24 Q. If another individual were using your  
25 Social Security number, were getting employment or

1 a driver's license or obtaining credit, if another  
2 person were using your Social Security number,  
3 would you want TransUnion to notify you?

4 MR. O'NEIL: Objection, assumes facts not  
5 in evidence.

6 THE WITNESS: Yeah, I don't know. I mean,  
7 somebody might be using my Social Security  
8 now.

9 BY MS. YEAGER:

10 Q. And would you want TransUnion to notify  
11 you of that fact?

12 A. I -- I wouldn't expect them to notify me.

13 Q. Why wouldn't you expect them to notify  
14 you?

15 A. Because they are not the Social Security  
16 Administration.

17 Q. If another individual were opening a line  
18 of credit using your Social Security number, would  
19 you want TransUnion to notify you?

20 MR. O'NEIL: Objection, assumes fact not  
21 in evidence and assumes that TransUnion would  
22 have this information.

23 Go ahead and answer, if you can.

24 THE WITNESS: If somebody else is using  
25 their name and address and my Social Security

1 items would be monitored at your company?

2 MR. O'NEIL: Objection, lack of  
3 foundation.

4 THE WITNESS: I wouldn't characterize it  
5 as a decision. You know, when we -- when we  
6 introduced the product, it was a TransUnion  
7 only product, and TransUnion told us which --  
8 which factors they were monitoring.

9 BY MS. YEAGER:

10 Q. Do you know why TransUnion selected the  
11 items it selected?

12 A. No.

13 Q. Do you know why other companies monitor  
14 other items that are different?

15 MR. O'NEIL: Objection, assumes facts not  
16 in evidence.

17 Go ahead and answer, if you can.

18 THE WITNESS: No, I don't know.

19 BY MS. YEAGER:

20 Q. Are there different types of identity  
21 theft?

22 MR. O'NEIL: Objection, lack of  
23 foundation, vague.

24 THE WITNESS: Yes.

25

1 BY MS. YEAGER:

2 Q. What different types of identity theft are  
3 there?

4 A. Well, I think the -- you know, the  
5 definition of identity theft is still kind of up in  
6 the air.

7 I gave you what I thought my definition  
8 was earlier in terms of somebody using a consumer's  
9 personal information for nefarious financial  
10 purposes, so emphasis on the word theft.

11 But, for example, you know, I know that  
12 there is quite a bit of confusion around the, you  
13 know, credit card -- what I term credit card fraud,  
14 somebody using your credit card, not necessarily  
15 knowing the rest of your personal information, but  
16 somebody using your credit card to make an  
17 unauthorized purchase sometimes called identity  
18 theft.

19 You know, I know there is, you know,  
20 criminals who use other people's identities. You  
21 know, I have heard of cases where people have been  
22 arrested and provided false documentation in terms  
23 of they were posing as somebody else.

24 Q. Of these different types of identity theft  
25 and credit card fraud that you have discussed,

1 which of these would trigger an alert to one of  
2 your customers?

3 A. Just the one that I defined where somebody  
4 is using your personal information to attempt to  
5 get credit in your name.

6 Q. If an individual were using your  
7 Social Security number and that was the only piece  
8 of personal identification that was being reported  
9 fraudulently, would the original holder of the  
10 Social Security number be notified?

11 A. No.

12 Q. Why not?

13 A. Because there is no way to verify who is  
14 the legitimate holder of that Social Security  
15 number.

16 Q. If you had two -- do you need to take a  
17 break?

18 A. No.

19 Q. If you had two customers who wanted to  
20 subscribe to Credit Monitoring in 2003 and both of  
21 those customers tried to sign up for Credit  
22 Monitoring with your company in 2003 using the same  
23 Social Security number, could they both do so?

24 A. Our system only allows for one account, a  
25 unique Social Security number. So on our system,

EXHIBIT E

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

STEVEN G. MILLETT, MELODY J. )  
MILLETT, On Behalf of )  
Themselves and All Others )  
Similarly Situated, )

Plaintiffs, )

vs. )

No. 05-599-SLR

TRUELINK, INC., a Trans Union )  
Company, )

Defendant. )

VIDEOTAPED DEPOSITION OF BARBARA KOZEL

Taken on behalf of Plaintiff

March 29, 2007

Reported by Roselind C. Pisano, CSR

Illinois License No. 084-002031

1 A. Richard Siegel.

2 Q. Could you spell his last name please?

3 A. S-i-e-g-e-l.

4 Q. I'm going to ask you to phonetically say  
5 the name of the individual in Orange County whose  
6 first name is Stan, and I'm going to try to  
7 phonetically write a note.

8 A. Tom Disdanislaw.

9 Q. Is TransUnion compensated for providing  
10 accounting services to TU Interactive?

11 A. Yes.

12 Q. Is that a flat fee?

13 A. Yes.

14 Q. Do you know what that flat fee is?

15 A. No.

16 Q. Is that an amount that's negotiated every  
17 year?

18 A. No.

19 Q. How long has it been since that flat fee  
20 was changed?

21 A. It changes every year.

22 Q. Is that a fee that is negotiated?

23 A. No.

24 Q. Who determines that fee?

25 A. It's determined -- the accounting

1 BY MS. YEAGER:

2 Q. Are your functions in the consumer division  
3 services provided for TU and for TU Interactive or  
4 only for TU Interactive?

5 A. Can you repeat that, I guess?

6 Q. Sure. The action that we have involves TU  
7 Interactive, and I understand that TransUnion  
8 provides those accounting services for TU  
9 Interactive, is that correct?

10 A. Correct.

11 Q. And then you're the person, you're the  
12 segment controller for the consumer division at TU?

13 A. Correct.

14 Q. And so are your responsibilities solely for  
15 accounting services for TU Interactive or do you  
16 also handle accounting services for TU itself?

17 A. Both.

18 Q. And as concerns the accounting functions  
19 that you provide for TU, could you generally  
20 describe those for me again?

21 I think I've misunderstood your testimony  
22 and I just want to make certain I have it correct.

23 So if you were thinking in terms of what  
24 services you provide for TU, could you generally  
25 describe those?

1 A. I provide the accounting services, which is  
2 financial reporting, budgets, forecasts, commission  
3 processing, billing for two divisions within  
4 TransUnion. And those divisions are consumer  
5 relations and direct-to-consumer resellers.

6 Q. Thank you. I think I'm clear now. Thank  
7 you for clarifying that.

8 Approximately how much -- let me begin  
9 again.

10 Approximately what percentage of your time  
11 is devoted to providing accounting services for TU  
12 Interactive?

13 A. About 85 percent.

14 Q. And those whom you supervise, can you  
15 estimate the amount of time that they would spend  
16 providing accounting services to TU Interactive?

17 A. I would say it's probably 60/40.

18 Q. About 60 percent of your group's time would  
19 be spent for TU Interactive?

20 A. Yes.

21 Q. I understand that's an approximation and I  
22 appreciate that.

23 As the accounting controller for the TU  
24 Interactive services you provide or assist in the  
25 preparation of a number of reports, is that correct?

1 BY MS. YEAGER:

2 Q. Is this a financial report such as the type  
3 of report that your company prepares for TU  
4 Interactive?

5 A. Yes.

6 Q. What is the name of this report?

7 A. This is the daily report.

8 Q. And does your group prepare this report?

9 A. A person in my group prepares this, yes.

10 Q. Who is the individual who prepares these?

11 A. Anthony Chen.

12 Q. Could you spell the last name?

13 A. C-h-e-n.

14 Q. Are you familiar with the contents of this  
15 report?

16 A. Yes.

17 Q. I have a few questions that I'd like to ask  
18 so that I understand the content of the reports more  
19 clearly. We had a series of these produced to us  
20 and they were a date range of 3-31-03 was the first  
21 report that was produced to us. And then the last  
22 report produced to us was a date 3-31-06.

23 Do you know why these reports began to be  
24 generated in 3-31-03, or were they begun in 3-31-03?

25 MS. CASTILLO: Objection. Foundation, and

1 compound.

2 BY MS. YEAGER:

3 Q. Were these reports prepared prior to  
4 3-31-03?

5 A. I believe so, yes.

6 Q. Would they have been of a similar  
7 appearance? Were they formatted similarly?

8 A. Yes.

9 Q. As to the text of these, what is a run  
10 date?

11 MS. CASTILLO: Are you referring to a  
12 particular page?

13 MS. YEAGER: Right on the very top line of  
14 18813.

15 MS. CASTILLO: 18813?

16 MS. YEAGER: Uh-huh.

17 What are the page numbers you have?

18 MS. CASTILLO: Maybe --

19 MS. YEAGER: Let's go off for a second. I  
20 think I've got the wrong Exhibit in front of me.

21 THE VIDEOGRAPHER: We're going off the  
22 record at 10:32.

23 (Whereupon, a break was taken  
24 from 10:32 until 10:46 a.m.)

25 THE VIDEOGRAPHER: We are back on the

1 Park, Illinois.

2 Q. Are you on any medications that might  
3 affect your ability to testify today?

4 A. No.

5 Q. We'll ask that you speak clearly and give  
6 verbal responses so that the court reporter can  
7 record your answers. Uhms are very difficult to  
8 interpret on the record. Yes and no is more  
9 helpful.

10 Please keep your voice up for the reporter.

11 If you need for me to repeat a question,  
12 please feel free to ask me to do that. And if you  
13 need a break, we can take one at any time. I rather  
14 not take a break when there's a question pending.  
15 But if at any other time you wish to take a break,  
16 please let me know.

17 If there's something about the question  
18 that I'm asking that you don't understand, please  
19 let me know.

20 What is your educational background please?

21 A. I have a BS in accounting.

22 Q. From what institution did you obtain your  
23 degree?

24 A. The University of Illinois in Champaign-  
25 Urbana.

1 Q. And what year did you obtain that degree?

2 A. December 1988.

3 Q. And do you have any other degrees?

4 A. No.

5 Q. Do you have any professional licenses?

6 A. No.

7 Q. You're not a CPA?

8 A. No.

9 Q. Are you currently employed by TU

10 Interactive?

11 A. No.

12 Q. Who is your current employer?

13 A. TransUnion LLC.

14 Q. Does TransUnion LLC perform accounting  
15 functions for TU Interactive?

16 A. Yes.

17 Q. And how long have they done so?

18 A. Since the acquisition in November of 2002.

19 Q. November of '02?

20 A. Yes. 2002.

21 Q. Do you know who performs the accounting  
22 functions for TU Interactive prior to that time?

23 A. No.

24 Q. Do you have access to any of those  
25 accounting records for the time prior to November of

1 2002?

2 A. Yes.

3 Q. And are those records stored at your  
4 offices at the TransUnion facility?

5 A. Yes.

6 Q. Was the accounting for TU Interactive  
7 handled by someone who was a TU Interactive employee  
8 prior to the time that TransUnion began doing the  
9 accounting?

10 A. Yes.

11 Q. Did they have an outside CPA firm as well?

12 A. I don't know.

13 Q. Was there an accounting department at TU  
14 Interactive prior to the time that TU began doing  
15 their accounting?

16 A. I don't know.

17 Q. Are the accounting records for TU audited  
18 on a routine basis?

19 A. No.

20 MS. CASTILLO: Are you speaking of  
21 TransUnion, TU?

22 BY MS. YEAGER:

23 Q. Yes. Let me clarify. Are the accounting  
24 records for TransUnion audited on a routine basis?

25 A. TransUnion, yes.

1 Q. And who does those audits?

2 A. I don't know.

3 Q. Is that an outside company?

4 A. Yes.

5 Q. Is there an accounting department at  
6 TransUnion?

7 A. Yes.

8 Q. And how large is it?

9 A. It's about 100 people.

10 Q. Do you supervise the entire department?

11 A. No.

12 Q. Who supervises the department at TU?

13 A. The CFO, which is Scott Schubert.

14 Q. Could you spell his last name please?

15 A. I think it's S-c-h-u-b-e-r-t.

16 Q. What is your title at TU?

17 A. I am the segment controller for the  
18 consumer division.

19 Q. Segment controller for the consumer  
20 division, is that right?

21 A. Yes.

22 Q. How many divisions are there at TU?

23 A. There are five primary segments or  
24 divisions.

25 Q. And could you name those please?

1 A. The consumer -- consumer, USIS, real estate  
2 services, international, and corporate.

3 Q. And what is -- let me start again please.

4 In that consumer segment or division, what  
5 entities or companies or products do you handle?

6 A. TransUnion Interactive, Inc., the consumer  
7 relations division of TransUnion, and  
8 direct-to-consumer resellers.

9 Q. I think you mentioned a segment USIS. Did  
10 I get that right?

11 A. Yes.

12 Q. And what is the USIS segment?

13 A. That's the U.S. credit reporting segment.

14 Q. That is the segment of TransUnion which is  
15 considered a credit reporting agency?

16 MS. CASTILLO: Objection, foundation.

17 Go ahead.

18 THE WITNESS: I don't know.

19 BY MS. YEAGER:

20 Q. Okay. That's fine. Does that segment  
21 comprise the part of TransUnion which maintains  
22 credit reports and credit files about consumers?

23 MS. CASTILLO: Objection, foundation.

24 Go ahead.

25 THE WITNESS: Yes.

1 BY MS. YEAGER:

2 Q. Does it have any other components?

3 A. I don't know.

4 Q. You mentioned a real estate segment, is  
5 that correct?

6 A. Yes.

7 Q. And what is that segment about?

8 A. That segment sells credit products to  
9 mortgage companies.

10 Q. What sorts of products does it sell, can  
11 you --

12 A. I don't know.

13 Q. -- give me an idea?

14 Is the idea that a mortgage company would  
15 need to have access to a consumer's information in  
16 order to issue --

17 A. I don't know.

18 Q. -- mortgages?

19 And the international segment, what does  
20 that comprise?

21 A. That comprises our international holdings.

22 Q. What is held internationally?

23 A. We have Canada, South Africa, Hong Kong.

24 Q. Do any of those international holdings  
25 provide direct-to-consumer sales?

1 A. I guess I need question clarity.

2 Q. Oh, sure. You mentioned, for example, that  
3 you had an international holding in Canada. Does  
4 the company that is in Canada, or the group that's  
5 in Canada, sell products directly to consumers?

6 MS. CASTILLO: Objection, foundation.

7 THE WITNESS: No.

8 BY MS. YEAGER:

9 Q. Does the group in South Africa?

10 A. I don't know.

11 Q. And Hong Kong?

12 A. I don't know.

13 Q. And then I think the last one you mentioned  
14 was the corporate segment?

15 A. Yes.

16 Q. And what is involved in the corporate  
17 segment?

18 A. I don't know.

19 Q. Who is the person who is in charge of  
20 accounting for the USIS segment?

21 A. Todd Cello.

22 Q. And is he also a controller?

23 A. Yes.

24 Q. Could you spell his last name?

25 A. C-e-l-l-o.

1 Q. And the individual who is in charge of the  
2 real estate segment?

3 A. David D'Agostine.

4 Q. Could you spell the last name?

5 A. I don't know how to spell his last name.

6 Q. Is it Agostine or D'Agostine?

7 A. I don't know.

8 Q. Is he a controller as well?

9 A. Yes.

10 Q. But you think his last name starts with a  
11 D, the letter D?

12 A. Yes, uh-huh.

13 Q. And in the international group, who is the  
14 head of that segment?

15 A. Claudia Vilim.

16 Q. Could you spell her last name?

17 A. V-i-l-i-m.

18 Q. And is she also a controller?

19 A. She's actually a CFO.

20 Q. The CFO. The chief financial officer?

21 A. Yes.

22 Q. And is she a chief financial officer for a  
23 particular segment or for TransUnion?

24 A. For the international segment.

25 Q. For the international segment. Thank you.

1 And the corporate segment, do you know --

2 A. David Gilbert.

3 Q. G-i-l-b-e-r-t?

4 A. Yes.

5 Q. And is he a controller?

6 A. I don't know his exact title.

7 Q. What are your functions as a controller?

8 A. I'm responsible for all of the accounting  
9 and financial analysis for the consumer segment. It  
10 includes preparing financial statements, budgets,  
11 forecasts, budgets and forecasts, account  
12 reconciliations, commission payments, vendor  
13 payments, billing.

14 Q. Do you supervise a staff?

15 A. Yes.

16 Q. And how large is the staff you supervise?

17 A. Seven. Seven people.

18 Q. And are all of those seven people here in  
19 Illinois?

20 A. Six of them are.

21 Q. And the seventh?

22 A. Is in San Luis Obispo, California.

23 Q. How long have you been a controller?

24 A. For about nine years.

25 Q. Have you been a controller with TU the

1 entire nine years?

2 A. Yes.

3 Q. Has your title remained the same during  
4 that entire time?

5 A. Yes.

6 Q. What did you do prior to the time that you  
7 were a controller at TransUnion?

8 A. I was a director at TransUnion.

9 Q. And how long were you a director at  
10 TransUnion?

11 A. I'm not sure.

12 Q. Do you have the approximate date range?

13 A. Probably like two or three years.

14 Q. What were your responsibilities as a  
15 director?

16 A. Very similar to my responsibilities as a  
17 controller.

18 Q. What was the reason for the change of the  
19 name of your title?

20 A. I don't remember.

21 Q. Prior to the time that you were a director,  
22 were you also employed at TransUnion?

23 A. Yes.

24 Q. And what was your position prior to the  
25 time you were a director?

1 A. I was a manager.

2 Q. And what did you manage?

3 A. I managed specific segments -- specific  
4 divisions within the U.S. credit reporting segment.

5 Q. How long did you have that job?

6 A. Maybe about two years.

7 Q. And did you have any other positions with  
8 TransUnion prior to that time?

9 A. Yes. And --

10 Q. Please.

11 A. I was a supervisor in international.

12 Q. And how long were you a supervisor in  
13 international?

14 A. I think it was like one or two years.

15 Q. And prior to that time did you have any  
16 other positions?

17 A. Yes.

18 Q. What was your prior position?

19 A. I was a financial analyst.

20 Q. And what did you do while you were a  
21 financial analyst?

22 A. I was doing -- I was basically running the  
23 closing cycle, so I was doing journal entries,  
24 account reconciliations.

25 Q. How long did you work as a financial

1 analyst?

2 A. One or two years.

3 Q. Did you have any positions at TransUnion  
4 prior to the time you were a financial analyst?

5 A. Yes.

6 Q. And what was that position?

7 A. I was a senior accountant.

8 Q. What were your jobs -- excuse me. What was  
9 your job responsibility as a senior accountant?

10 A. I don't remember.

11 Q. And do you remember approximately how long  
12 you operated as a senior accountant?

13 A. Like a year.

14 Q. Did you have any other positions prior to  
15 that time?

16 A. Yes.

17 Q. What was your prior position?

18 A. I was a staff accountant.

19 Q. Were you also with --

20 A. Yes.

21 Q. -- TransUnion at that time?

22 A. Yes, yes.

23 Q. Do you remember approximately how long you  
24 were a staff accountant?

25 A. Six months.

1 Q. Any other positions with TU --

2 A. No.

3 Q. -- prior to that time?

4 A. No.

5 Q. I'm just going to repeat this and we'll see  
6 if we've got it together.

7 You started as a staff accountant for a few  
8 months, and then you were a senior accountant for  
9 about a year, then you became a financial analyst  
10 for one or two years, then you were a supervisor  
11 dealing with international segment for one or  
12 two years, and then for about two years you were a  
13 manager, then you became a director for two to  
14 three years, and then you have been a controller  
15 since that time for approximately nine years.

16 A. There's probably too many years in there,  
17 but that's close enough.

18 Q. Close enough. Very good.

19 And what year did you begin with  
20 TransUnion?

21 A. 1989.

22 Q. Have they always been TransUnion since  
23 you've been employed there? Has that always been  
24 the company name?

25 A. Yes.

1 Q. Did you begin with TransUnion upon your  
2 graduation with your Bachelor's Degree?

3 A. Yes.

4 Q. Did you have any jobs as an accounting  
5 nature prior to the time that you graduated?

6 A. No.

7 Q. Do you participate in continuing education?

8 A. No.

9 Q. Have you participated in any other  
10 litigation while you've been employed at TransUnion  
11 as a witness?

12 A. Yes.

13 Q. And where were you a witness, for what  
14 matter?

15 MS. CASTILLO: Are you talking about the  
16 case names or --

17 BY MS. YEAGER:

18 Q. Yes, please.

19 A. Carmel, Pebble Beach.

20 Q. Was that the location of the action?

21 A. I don't know.

22 Q. Was that the case name?

23 MS. CASTILLO: It's more of a case name,  
24 Carmel, Pebble Beach versus TransUnion.

25

EXHIBIT F – Duni experience

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

STEVEN G. MILLETT, MELODY J. )  
MILLETT, On Behalf of )  
Themselves and All Others )  
Similarly Situated, )

Plaintiffs, )

vs. )

No. 05-599-SLR

TRUELINK, INC., a Trans Union )  
Company, )

Defendant. )

VIDEOTAPED DEPOSITION OF LUCY DUNI

Taken on behalf of Plaintiff

March 28, 2007

Reported by Roselind C. Pisano, CSR

Illinois License No. 084-002031

1 please?

2 A. Waveland.

3 Q. W-a-v-e-l-a-n-d?

4 A. Yes.

5 Q. Could you describe your educational  
6 background for me please?

7 A. Yes. I studied advertising at Pepperdine  
8 University.

9 Q. And do you have a degree from that  
10 institution?

11 A. Yes.

12 Q. And what year was your degree?

13 A. 1998.

14 Q. And was that a Bachelor's Degree?

15 A. Yes.

16 Q. Are you currently employed by TU  
17 Interactive?

18 A. Yes.

19 Q. And how long have you been employed?

20 A. Since September of 1998.

21 Q. Did you have any other professional  
22 employment other than your employment with TU  
23 Interactive?

24 A. I had some internships during college.  
25 That was it.

1 Q. And what have been your positions at TU  
2 Interactive?

3 What did you begin doing in 1998?

4 A. I began doing marketing, and then I've held  
5 various positions in the marketing department.

6 Q. And how large was the marketing department  
7 at that time?

8 A. Just one, me.

9 Q. And how long were you employed in the  
10 marketing department?

11 A. Since then until presently.

12 Q. Has your job title always remained the  
13 same?

14 A. It's changed.

15 Q. Could you walk me through the history of  
16 that? What was your first title after 1998?

17 A. I believe it was marketing specialist and  
18 then marketing manager, and now it's director of  
19 marketing.

20 Q. What year did you become a marketing -- the  
21 marketing specialist?

22 A. That was 1998.

23 Q. And what year did you become the marketing  
24 manager?

25 A. That was around 2002 or '3.

1 Q. And how many people did you manage as  
2 marketing manager?

3 A. Two.

4 Q. Where were you employed?

5 A. In San Luis Obispo, California.

6 Q. And how long did you work as marketing  
7 manager?

8 A. Until my last promotion, which was 2005.

9 Q. And now your title is director of  
10 marketing?

11 A. Yes.

12 Q. What were your job responsibilities as  
13 marketing manager?

14 A. They were similar to what they are now,  
15 customer acquisition, customer retention for  
16 TrueCredit.com.

17 Q. Who are the customers for TrueCredit.com?

18 MS. FRIEDMAN: Objection, vague.

19 THE WITNESS: Can you --

20 BY MS. YEAGER:

21 Q. You just mentioned that you were in charge  
22 of customer acquisition --

23 A. Uh-huh.

24 Q. -- for TrueCredit.com. Are your customers  
25 individual consumers, businesses, corporations?

1 A. Yes, consumers.

2 Q. Consumers. And then in 2005 you became the  
3 director of marketing. Are you still managing  
4 individual people within the company?

5 A. Yes.

6 Q. And how has your job changed?

7 A. My responsibilities have increased since  
8 that promotion.

9 Q. And what -- how were your responsibilities  
10 increased?

11 A. To include product management. And the  
12 rest of the responsibilities have remained the same.

13 Q. And what do you do for product management?

14 A. A -- I mean there's someone dedicated to  
15 managing the products on TrueCredit.com, and I  
16 manage that person.

17 Q. How many people are now under your  
18 supervision?

19 A. Five.

20 Q. Are you currently located in California?

21 A. No. I'm located here now in Chicago.

22 Q. Is the entire department now here in  
23 Chicago?

24 A. No. There's -- here and San Luis Obispo.

25 Q. Are you taking any medications today which

## EXHIBIT F – Sales and Marketing and Scoring

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

STEVEN G. MILLETT, MELODY J.	)	
MILLETT, On Behalf of	)	
Themselves and All Others	)	
Similarly Situated,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	No. 05-599-SLR
	)	
TRUELINK, INC., a Trans Union	)	
Company,	)	
	)	
Defendant.	)	

VIDEOTAPED DEPOSITION OF LUCY DUNI

Taken on behalf of Plaintiff

March 28, 2007

Reported by Roselind C. Pisano, CSR

Illinois License No. 084-002031

1 that, you know, we helped to design the whole page,  
2 but these are the products that we're responsible  
3 for.

4 Q. Thank you for that clarification.

5 I'd like to direct your attention to the  
6 third item down, the entry that says "Online credit  
7 monitoring starting at 10.95 a quarter."

8 Do you see that reference on this document?

9 A. Yes.

10 Q. And that line reads "Identity theft and  
11 fraud protection. Stay informed with ongoing access  
12 to your credit report and weekly fraud-watch  
13 e-mails."

14 Am I reading that correctly?

15 A. Yes.

16 Q. What -- in what manner does online credit  
17 monitoring provide fraud protection?

18 A. Well the fraud-watch e-mails alert you to  
19 significant changes in your credit file, and if it's  
20 something that you don't recognize it could be a  
21 sign of fraud.

22 Q. Can one be a victim of fraud and discover  
23 that many, many years after the fact?

24 MS. FRIEDMAN: Objection. Lack of  
25 foundation, calls for speculation.

1 THE WITNESS: Can you -- yeah. Can you  
2 repeat the question?

3 BY MS. YEAGER:

4 Q. Can an individual be a fraud victim and yet  
5 not learn of that for many years?

6 A. Sure.

7 Q. Can an individual be a victim of fraud and  
8 yet not have that fraud appear as an item on their  
9 credit report?

10 MS. FRIEDMAN: Same objection.

11 THE WITNESS: I mean the information that  
12 is contained in a credit report can be -- if you  
13 don't recognize some of that information, it can be  
14 a sign of fraud.

15 So I mean that's really all I know about  
16 the fraud-watch e-mails.

17 BY MS. YEAGER:

18 Q. Do you know whether or not all data which  
19 is available to a credit reporting agency would  
20 appear on an individual consumer's credit report?

21 A. I know -- no, I don't know that. I know  
22 what information -- roughly what information appears  
23 in a credit report.

24 Q. Do you have any idea whether or not  
25 everything known about an individual is presented on

1 Q. Assuming, as we must, that this page was  
2 from 2003. Making that assumption, what monitoring  
3 service products would have been available in 2003?

4 MS. FRIEDMAN: Objection. Lack of  
5 foundation.

6 THE WITNESS: The product that's described  
7 here, the Credit Monitoring.

8 BY MS. YEAGER:

9 Q. And does this particular product monitor  
10 only one credit union report?

11 A. Yes.

12 Q. Which credit union?

13 A. TransUnion.

14 Q. I'd like to refer you, if I might, to the  
15 second entry. It says "Protection: Complete  
16 identity theft protection with weekly fraud-watch  
17 e-mails."

18 Am I reading that text correctly?

19 A. Yes.

20 Q. How does the monitoring service provide  
21 complete identity theft protection?

22 A. Well it specifies "weekly fraud-watch  
23 e-mails," and then down below it explains how those  
24 work. "Receive weekly e-mail alerts to changes in  
25 your report, find out about credit report changes,

1 including fraudulent activity, new inquiries, new  
2 accounts, late payments and more."

3 And then there is this "Learn More" link  
4 that goes on to describe it in more detail.

5 Q. If one were to follow that link, would one  
6 be referred to a TrueCredit.com web site page?

7 A. Yes.

8 Q. Are there any other changes to a credit  
9 report that would result in an e-mail alert?

10 MS. FRIEDMAN: Objection. Vague. Any  
11 other changes other than what?

12 MS. YEAGER: The five she's directed us to  
13 here.

14 MS. FRIEDMAN: Well it says "And more,"  
15 so...

16 THE WITNESS: Yes.

17 BY MS. YEAGER:

18 Q. Do you know what the "and more" reference  
19 is to?

20 A. I don't know them off the top of my head.

21 Q. Where could I find those?

22 A. They are on the web site.

23 Q. Are all of the changes which are monitored  
24 listed on the web site?

25 A. Yes.

1 Q. You mentioned that currently the company  
2 that you work for also has a credit monitoring  
3 product that monitors three credit bureau reports,  
4 is that correct?

5 A. Yes.

6 Q. And do you know what items would be  
7 triggering an alert from those credit bureau  
8 reports?

9 A. No. It's similar, but I don't know  
10 exactly.

11 Q. Do you know where one could find out what  
12 those would be?

13 A. Yes. On the web site.

14 Q. And would that be on the TrueCredit.com web  
15 site?

16 A. Yes.

17 Q. Are triggers the same or -- let me begin  
18 that question again.

19 If one had a new account e-mail alert from,  
20 for example, TransUnion, would one also get an alert  
21 about the same account from Equifax?

22 MS. FRIEDMAN: Objection. Lack of  
23 foundation.

24 THE WITNESS: If the -- if there was a new  
25 account that appeared on both credit reports, then

1 presumably there would be two alerts.

2 BY MS. YEAGER:

3 Q. If an account only appeared on one credit  
4 report, then would only one alert be sent?

5 A. Yes.

6 Q. How does the fact that one receives a  
7 fraud-watch e-mail alert provide complete identity  
8 theft protection?

9 A. Well in the context of the way that we're  
10 selling the product here, it alerts then to  
11 potential fraud.

12 Q. Does it alert you after the fraud has taken  
13 place?

14 A. Well it would alert you to those critical  
15 changes, like an address change or a new inquiry or  
16 a new account, which could signal fraud.

17 Q. In what way is a change to a credit report  
18 an indication of fraud?

19 MS. FRIEDMAN: Objection. Lack of  
20 foundation.

21 THE WITNESS: Can you say that one more  
22 time?

23 BY MS. YEAGER:

24 Q. As I understand your testimony, you're  
25 saying that you are completely protected from

1 identity theft if you receive alerts about changes  
2 to your credit report. Is that your testimony?

3 A. Well, I mean, in the context of credit  
4 monitoring, alerting you to changes in your credit  
5 report is a good way to identity -- identify  
6 identity theft.

7 Q. But you don't know whether or not all the  
8 information available to a credit union appears on  
9 one's credit report?

10 A. I don't know what information TransUnion or  
11 any credit bureau ultimately know exactly what is  
12 stored, no.

13 Q. I need to direct your attention down to the  
14 box that says "New! Fraud Resolution Services."

15 It's near the bottom of the page. Do you  
16 see that entry?

17 A. Yes.

18 Q. What are fraud resolution services?

19 A. Fraud resolution services is what is  
20 described here. If you become a victim of identity  
21 theft the service helps you to resolve the identity  
22 theft.

23 Q. And how does it help resolve?

24 A. By -- the way that it works is, you know,  
25 you call and they can help you to remove inaccurate

1 information from the credit report, to file  
2 affidavits. All of the information is here. If you  
3 click the "Learn More" it describes how it works.

4 Q. Can the fraud resolution service -- first,  
5 who provides the fraud resolution services that  
6 would have been offered in 2003?

7 A. There is -- I'm not sure exactly. There's  
8 been various providers over the years.

9 Q. Are those generally provided by another  
10 entity, someone other than TU Interactive?

11 A. Yes.

12 Q. Would the entity or individual who is  
13 providing the fraud resolution services be available  
14 to directly work with individuals to remove  
15 fraudulent items, or would the consumer still have  
16 to take those steps on their own behalf?

17 MS. FRIEDMAN: Objection. Compound, lack  
18 of foundation.

19 THE WITNESS: Consumers -- or, you know,  
20 the people can call TransUnion Fraud Victims  
21 Assistance directly.

22 BY MS. YEAGER:

23 Q. If one located a fraudulent item on their  
24 credit report and that fraudulent item were, for  
25 example, a credit card account that should not be

1 attributed to one of your customers, that customer  
2 has learned about that credit card account that  
3 needs to be closed; can the company who's providing  
4 the fraud resolution services close that account?

5 MS. FRIEDMAN: Objection. Lack of  
6 foundation.

7 THE WITNESS: I don't know. I know that if  
8 you call TransUnion Fraud Victims Assistance they  
9 can help you over the phone to remove fraudulent  
10 information. But I don't know exactly how it works,  
11 if it's closing, or what not.

12 BY MS. YEAGER:

13 Q. I need to direct your attention down to a  
14 page. I'm just going to hold it up off the camera  
15 to help you find it. At the top it reads  
16 "TrueCredit Manage Your Credit and Debt - Your  
17 Life." And it's page 1 of 1. And then the URL  
18 reads "TrueCredit.com/popup/creditMonitor/  
19 monitoringSample3.jsp?"

20 Are we on the same page?

21 A. Yes.

22 Q. And it's dated on my copy 8-6-2003.

23 Is this the services you were just  
24 referring to, the fraud resolution services?

25 A. Yes.

1 Q. I'd like to direct your attention down in  
2 the little bulleted items to the entry that says  
3 "Help you order a copy of your Social Security  
4 Personal Earnings and Benefits Statement and check  
5 it for accuracy."

6 Did I accurately read that line?

7 A. Yes.

8 Q. Why is it important to order a copy of your  
9 Personal Earnings and Benefits Statement from the  
10 Social Security Administration?

11 MS. FRIEDMAN: Objection. Lack of  
12 foundation.

13 THE WITNESS: Yes. I don't know why it's  
14 important to do that.

15 MS. YEAGER: For the record, I note that  
16 there is some material I need to redact from this  
17 packet, and I will do that at break. I just wanted  
18 to let counsel know that I'll be taking a marker and  
19 blacking over the social security number listed on  
20 these pages.

21 MS. FRIEDMAN: Oh, okay. I haven't gotten  
22 to those pages yet, but fine.

23 BY MS. YEAGER:

24 Q. I do not intend to have you disclose to us  
25 any of the information you might have discussed with

1 Interactive?

2 MS. FRIEDMAN: Objection, vague.

3 THE WITNESS: No.

4 BY MS. YEAGER:

5 Q. Are e-mails directed to certain sets of  
6 customers of TU Interactive?

7 A. Yes.

8 Q. Why is that so?

9 A. To offer products to -- to avoid offering  
10 products to someone who already owns that product.

11 Q. Do you track sales based upon any given  
12 e-mail?

13 A. Yes.

14 Q. And why do you do that?

15 A. As part of our, you know, standard sales  
16 reporting.

17 Q. Are your e-mails designed to increase  
18 sales?

19 A. Yes.

20 MS. YEAGER: I'd like to enter another item  
21 as an Exhibit. I believe we're on 24.

22 (TrueLink Exhibit No. 24  
23 marked for identification.)

24 BY MS. YEAGER:

25 Q. I know this is voluminous, but I wanted to

1 enter it as an Exhibit in its entirety. I promise  
2 not to make you read the entire document before we  
3 leave.

4 Are you familiar with this document? It  
5 was provided in this group to us by your counsel --  
6 by counsel for the company.

7 Are you familiar with this document?

8 A. I just need to look at it for a minute.

9 Q. Please. Take all the time you need.

10 MS. FRIEDMAN: Do you want to identify the  
11 Bates number ranges for that?

12 BY MS. YEAGER:

13 Q. The Bates number range is TLM018435 through  
14 TLM018590.

15 A. It looks like it's a -- has to do with our  
16 Google campaign.

17 Q. Is this a report of some kind?

18 A. Yes.

19 Q. Have you seen it before, do you know?

20 A. No, I haven't seen this in this format  
21 before.

22 Q. What was the Google campaign?

23 A. Google paid search.

24 Q. I'm sorry, paid search?

25 A. Uh-huh.

1 page?

2 "Compliance Product," are you familiar with  
3 that term? It's in the box on the far right column.

4 A. No. "Compliance Products," I don't know  
5 what that means.

6 Q. You do or do not?

7 A. I don't.

8 Q. Do not. Are you familiar with the use of  
9 this phrase, "Customer View Services"?

10 A. No.

11 Q. Are you familiar with the  
12 "Cspt.truelink.com" reference?

13 A. Yes.

14 Q. What is that?

15 A. CSPT is the -- are the letters that we use  
16 to refer to our customer support tool.

17 Q. What is the customer support tool?

18 A. It's the tool used by customer service to  
19 help customers on the telephone.

20 Q. Is the customer service support tool  
21 displayed to employees of TU or their agents?

22 A. Yes.

23 Q. Is it displayed to a consumer?

24 A. No.

25 Q. Who designs the customer support tool at

1 this time?

2 MS. FRIEDMAN: Objection. Lack of  
3 foundation.

4 THE WITNESS: Product development.

5 BY MS. YEAGER:

6 Q. Is that a division of TU Interactive?

7 A. Yes.

8 Q. Where are those employees located, if you  
9 know?

10 A. Which employees?

11 Q. The product development employees.

12 A. San Luis Obispo.

13 Q. Are you familiar with the process of credit  
14 scoring?

15 A. Yes.

16 Q. What's your understanding about a credit  
17 score?

18 A. It's a number based on the information in  
19 your credit report.

20 Q. Why is the number generated?

21 MS. FRIEDMAN: Objection. Lack of  
22 foundation.

23 THE WITNESS: I don't know. That's hard to  
24 say why.

25

1 BY MS. YEAGER:

2 Q. The number is the basis of the information  
3 reflected on your credit report. Why is the number  
4 generated?

5 What's the purpose of the number?

6 A. Well there's different purposes. Lenders  
7 use a credit score, consumers look at their credit  
8 score.

9 Q. Why would a consumer look at their credit  
10 score?

11 MS. FRIEDMAN: Objection. Calls for  
12 speculation. Lack of foundation.

13 THE WITNESS: To help them manage their  
14 credit.

15 BY MS. YEAGER:

16 Q. How does viewing one's credit score help  
17 you manage your credit?

18 A. Well it allows you to understand where you  
19 stand, how you're doing as far as managing your  
20 credit.

21 Q. Who generates the credit score?

22 A. On what web site? Or what do you mean  
23 exactly?

24 Q. How -- who determines what a credit score  
25 is? Who makes the number?

1 A. There's a lot of different credit scores.

2 Q. What types of credit scores are there?

3 A. Well, you know, I don't know all of them  
4 off the top of my head.

5 Q. Does TrueCredit generate credit scores?

6 A. No.

7 Q. Does TU Interactive generate credit scores?

8 A. No.

9 Q. Does TransUnion generate credit scores?

10 A. Yes.

11 Q. Does Experian generate credit scores?

12 A. Yes.

13 Q. Does Equifax generate credit scores?

14 A. I don't know if they do.

15 Q. Can someone order information about their  
16 credit score from TU Interactive?

17 A. Yes.

18 Q. Are there a number of products which make  
19 an individual's credit score available?

20 A. Yes.

21 Q. What products are those?

22 A. Currently our three products; TransUnion  
23 Credit Monitoring, 3-Bureau Credit Monitoring, and  
24 3-in-1 Credit Report.

25 Q. In the TU Credit Monitoring product, how is

1 the credit score generated?

2 MS. FRIEDMAN: For clarification, you're  
3 talking about the current TransUnion Credit  
4 Monitoring product?

5 BY MS. YEAGER:

6 Q. Yes. Thank you.

7 A. The current product uses the TransRisk  
8 credit score.

9 Q. What is the TransRisk credit score?

10 A. It is a credit score provided by  
11 TransUnion.

12 Q. In 2005 how was the TransUnion credit score  
13 generated?

14 A. What do you mean by that?

15 Q. Was the TransRisk credit score also the  
16 source of the credit score in 2005?

17 A. As far as I know, TransRisk is the name  
18 that TransUnion has always used for their credit  
19 score.

20 Q. Are you familiar with a score called a  
21 CreditXpert score? C-r-e-d-i-t, the letter X  
22 capitalized, then p-e-r-t, all one word.

23 A. Yes.

24 Q. What is your understanding of the  
25 CreditXpert score?

1           A.    It is another score that we use to provide  
2    -- that we used before we used the TransRisk score.

3           Q.    Do you know what years it was used?

4           A.    I know it was used before 2002.

5           Q.    Was the CreditXpert score generated by TU?

6                   MS. FRIEDMAN:  Objection.  Lack of  
7    foundation.

8                   THE WITNESS:  No.

9    BY MS. YEAGER:

10          Q.    Who generated the CreditXpert score?

11          A.    I believe the company was called  
12    CreditXpert.

13          Q.    Do you know anything about that company?

14          A.    Not other than that was the score that we  
15    used at the time.

16          Q.    Do you know why the CreditXpert score is no  
17    longer being used?

18          A.    Well, you know, when we were acquired by  
19    TransUnion we switched to the TransUnion credit  
20    score.

21          Q.    Has the TransUnion credit score always been  
22    called TransRisk?

23          A.    As far as I know.  But I don't know as far  
24    -- you know, as long as I've been familiar with it.

25          Q.    Is it an accurate restatement of your

1 testimony that you understand that Experian also  
2 generates credit scores?

3 A. Yes.

4 Q. Do you know how Experian generates its  
5 credit scores?

6 A. No.

7 Q. Do you know whether it uses the TransRisk  
8 program to generate credit scores?

9 A. I don't think so.

10 Q. Do you know whether it uses the CreditXpert  
11 program to generate credit scores?

12 A. I don't know.

13 Q. Is an individual's data in their Experian  
14 credit report the same data in their TransUnion  
15 credit report?

16 MS. FRIEDMAN: Objection. Lack of  
17 foundation.

18 THE WITNESS: You know, it's hard to say.  
19 It depends on the person.

20 BY MS. YEAGER:

21 Q. And why would it depend?

22 A. The three national credit bureaus collect  
23 information independently.

24 Q. Because they collect data independently,  
25 might one credit report have information that would

1 not be on the credit report of another?

2 MS. FRIEDMAN: Objection. Calls for  
3 speculation.

4 THE WITNESS: Yes.

5 BY MS. YEAGER:

6 Q. If Experian, Equifax and TransUnion were to  
7 each generate a credit score, would the credit score  
8 number be the same for each of the three companies?

9 MS. FRIEDMAN: Objection. Lack of  
10 foundation.

11 THE WITNESS: I don't know. That's hard to  
12 say.

13 MS. YEAGER: Let's mark Exhibit No. 27.  
14 (TrueLink Exhibit No. 27  
15 marked for identification.)

16 BY MS. YEAGER:

17 Q. This is -- Exhibit No. 27 has a number  
18 TLM000920.

19 Are you familiar with this page?

20 A. This is an e-mail.

21 Q. Did you help develop this e-mail?

22 A. Someone in my group.

23 Q. Do you know who?

24 A. No. It's a group effort.

25 Q. Did your group design the entire e-mail?

1 A. Yes.

2 Q. In the text underneath the picture of the  
3 ever-so-happy couple there are three different items  
4 listed there; one for TransUnion, one for Experian  
5 and one for Equifax, and then underneath those names  
6 there are three digit numbers, are there not?

7 A. Yes.

8 Q. Are those three digit numbers intended to  
9 convey a certain score?

10 A. Right. It says "Example: How do your  
11 scores rank?"

12 Q. And would this be a credit score that you  
13 intended to convey?

14 A. Yes.

15 Q. And why did you convey that the three  
16 scores were different for the three different credit  
17 reports?

18 A. Since the bureaus collect information  
19 independently, the data can be different, so then  
20 the scores can be different.

21 Q. If the exact same data were available in an  
22 Experian credit report and in a TransUnion credit  
23 report, would the credit scores which were generated  
24 be the same?

25 MS. FRIEDMAN: Objection. Lack of

1 foundation.

2 THE WITNESS: Yeah. It's hard to say  
3 because it depends on each person, all the different  
4 factors.

5 BY MS. YEAGER:

6 Q. Does it depend on which computer program is  
7 being used to generate the score?

8 A. I would think so.

9 Q. When TU Interactive sells a 3-in-1 Credit  
10 Report, do they also provide a credit score for each  
11 of the three credit reports?

12 MS. FRIEDMAN: At what time frame?

13 MS. YEAGER: In 2006.

14 MS. FRIEDMAN: You're asking if -- I'm  
15 sorry. Are you asking if it's offered or if it's  
16 always provided?

17 MS. YEAGER: Let me begin again.

18 MS. FRIEDMAN: I'm sorry.

19 MS. YEAGER: Thank you. No, I appreciate  
20 the help.

21 BY MS. YEAGER:

22 Q. In 2006 if a consumer were to order a  
23 3-in-1 Credit Score -- let me begin again.

24 In 2006 if a consumer were to order a  
25 3-in-1 Credit Report, would that report also contain

1 credit scores?

2 A. No. One is included, and then the other  
3 two are available for an additional fee.

4 Q. Which score is included?

5 A. TransUnion.

6 Q. And that is a score which is calculated  
7 based upon -- in 2006 -- the TransRisk program, is  
8 that correct?

9 A. Yes, that's correct.

10 Q. And if a 3-in-1 Credit Report were ordered  
11 before 2002, that score generated by TransUnion  
12 would use the CreditXpert scoring system, is that  
13 correct?

14 MS. FRIEDMAN: I think your question is  
15 somewhat misleading because you're starting with the  
16 premise that in '06 the 3-in-1 includes a score.

17 In 2002 it may have been different. I  
18 don't know.

19 BY MS. YEAGER:

20 Q. You're right. Let's break that up. In  
21 2006 when one ordered a 3-in-1 Credit Report and one  
22 received their TU credit score, would that credit  
23 score have been based on the TransRisk program?

24 A. Yes.

25 Q. In 2002 if one ordered a 3-in-1 credit

1 score from TU Interactive, would they have received  
2 a credit score from TU?

3 A. I don't know. And I don't know that we had  
4 -- yeah. I don't know what the product mix was off  
5 the top of my head in 2002.

6 MS. FRIEDMAN: And I'll just object to the  
7 extent that your question assumed that there was a  
8 3-in-1 report available at that time.

9 BY MS. YEAGER:

10 Q. You mentioned that when a consumer  
11 purchased a 3-in-1 report in 2006, that they had a  
12 single score from TransUnion and that other scores  
13 were available. Is that a correct statement of your  
14 testimony?

15 A. Yes.

16 Q. Did one -- did the consumer pay an extra  
17 fee for the other scores?

18 A. Yes.

19 Q. Who set that fee?

20 A. There's a lot of people involved with  
21 pricing.

22 Q. Is there an individual department at TU  
23 Interactive that works on pricing products?

24 A. Yes.

25 Q. And what group is that?

1 A. Marketing.

2 Q. And who is the individual who heads  
3 marketing?

4 A. Myself.

5 Q. Are you responsible then for developing the  
6 pricing of products?

7 A. We propose pricing, we research pricing,  
8 but I'm not ultimately responsible.

9 Q. Who is ultimately responsible?

10 A. John Danaher, our president.

11 Q. I apologize, I lost my train of thought.

12 All right. We were talking about the fees  
13 that might be paid for other scores. And if I  
14 remember your testimony you were saying that the two  
15 other scores that might be obtained when one ordered  
16 a 3-in-1 report could be obtained for a fee, is that  
17 right?

18 A. Yes.

19 Q. And that fee might fluctuate from time to  
20 time, is that correct?

21 A. I think it's been pretty steady.

22 Q. And what is that fee?

23 A. It's 9.95.

24 Q. And how much is the 3-in-1 Credit Report if  
25 one does not get the extra two scores?

1 MS. FRIEDMAN: Right now or in 2006?

2 BY MS. YEAGER:

3 Q. In 2006.

4 A. 29.95.

5 Q. Who calculates the scores which are  
6 provided with a 3-in-1 Credit Report at this time?

7 A. We use the TransRisk credit score.

8 Q. Do you use that program to generate the  
9 Experian credit score?

10 A. Yes.

11 Q. Do you use that program to generate the  
12 Equifax credit score?

13 A. Yes.

14 Q. Why do you use that program?

15 MS. FRIEDMAN: Objection. Lack of  
16 foundation.

17 THE WITNESS: As far as I know it's -- I  
18 mean it's just because we were told to.

19 BY MS. YEAGER:

20 Q. If an individual were to obtain their  
21 credit score directly from Experian, would Experian  
22 use the TransRisk credit program?

23 MS. FRIEDMAN: Objection. Lack of  
24 foundation.

25 THE WITNESS: Not as far as I know.

1 BY MS. YEAGER:

2 Q. Do you know what program they would use?

3 A. I don't know.

4 Q. Is there any information on this page which  
5 conveys to the consumer that a single program is  
6 being used to generate the three different scores?

7 A. Well, no, not on this page.

8 Q. How would a consumer learn that fact?

9 A. Well when you click through here you go to  
10 the web site and then you have a lot of information  
11 on the web site on the details.

12 Q. And is your department responsible for the  
13 development of the web pages on the web site?

14 A. Yes.

15 Q. Are you aware of anyplace in which the  
16 consumer is notified that a single program is being  
17 used to generate the three different credit scores?

18 A. I don't know exactly the name of the page.

19 Q. Do you think that there is such a  
20 disclosure?

21 A. Yes.

22 Q. Do you know what language is included on  
23 that disclosure?

24 A. No, I don't.

25 Q. Did you draft the language?

1           A.    I think it's probably in our terms.  So no,  
2   I didn't draft it.

3           Q.    Who would have drafted the terms?

4           A.    Our legal and compliance groups.

5           Q.    Is a consumer expected to review the terms  
6   before they purchase a credit score?

7           A.    Yes.

8           Q.    How is the terms -- excuse me.  How are the  
9   terms displayed to the consumer?

10          A.    They are on the order form, and you have to  
11   agree to them.

12          Q.    Have the terms and conditions changed over  
13   time?

14                MS. FRIEDMAN:  Objection.  Lack of  
15   foundation.

16                THE WITNESS:  Yes, I think so.

17   BY MS. YEAGER:

18          Q.    And did you tell me who drafted the terms  
19   and conditions?

20          A.    I believe it's our legal and compliance  
21   groups.

22          Q.    Is that a group within TU Interactive?

23          A.    Yes.

24                MS. YEAGER:  We're on Exhibit No. 28.

25

1 (TrueLink Exhibit No. 28  
2 marked for identification.)

3 BY MS. YEAGER:

4 Q. Are you familiar with the contents of this  
5 page?

6 A. No.

7 Q. Does this page contain a reference to the  
8 TransRisk score?

9 A. Yes.

10 Q. Could you just read for the record the text  
11 of that reference?

12 A. "TransUnion TransRisk New Account."

13 Q. Are you familiar with any of these other  
14 scoring systems?

15 A. Yes.

16 Q. Which ones are you familiar with?

17 A. I'm familiar with FICO, CreditXpert. And  
18 that's it.

19 Q. This page references the CreditXpert as  
20 being Experian CreditXpert. Do you know what the  
21 relationship between Experian and CreditXpert is?

22 A. No.

23 Q. There is a column here that indicates  
24 "Range." Are you familiar with why there would be a  
25 range of scores in a credit scoring system?

1 A. What do you mean by why?

2 Q. For example, it appears that some of the  
3 ranges are from 190 to 950, and then some other  
4 ranges appear to be from, for example, 300 to 850.  
5 Do you know why those ranges are different between  
6 scores?

7 A. No, I don't know why they're different.

8 MS. YEAGER: I think we're about out of  
9 tape. Let's go off the record.

10 THE VIDEOGRAPHER: This is the end of tape  
11 number 2. We're going off the record at 12:31.

12 (Whereupon, a break was taken  
13 from 12:31 until 1:35 p.m.)  
14  
15  
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A F T E R N O O N   S E S S I O N

THE VIDEOGRAPHER: This is the beginning of  
tape number 3. We are back on the record at 1:35  
p.m.

MS. YEAGER: Let's mark the next Exhibit  
please, Exhibit No. 29.

(TrueLink Exhibit No. 29  
marked for identification.)

BY MS. YEAGER:

Q. This is a document, TLM000948.

Are you familiar with this document?

A. Yes.

Q. Did you have input into the development of  
this document?

A. Yes.

Q. Is this an e-mail?

A. Yes.

Q. The text is somewhat hard to read, but I  
think you can make it out. If I can, I think anyone  
probably can.

I'm trying to interview you about the text  
that says, "Your three scores are an essential part  
of your finances, since many lenders look at all  
three of your scores when making decisions about  
your loans."

1 Can you read that text?

2 A. Yes.

3 Q. When a lender obtains a score in order to  
4 issue credit, are they looking at a score which is  
5 generated by TransLink?

6 MS. FRIEDMAN: Objection. Lack of  
7 foundation.

8 THE WITNESS: They could. I don't know.  
9 Lenders use a variety of scores.

10 BY MS. YEAGER:

11 Q. What kinds of scores do they use?

12 MS. FRIEDMAN: Same objection.

13 THE WITNESS: You know, there's, you know,  
14 literally thousands of different scoring models out  
15 there, and then each lender applies their own  
16 business rules to that score. So, you know, it  
17 depends on what lender you're talking about.

18 BY MS. YEAGER:

19 Q. If a lender secures a credit score from  
20 Experian, would that credit score be based upon the  
21 TransLink product?

22 MS. FRIEDMAN: Objection. Lack of  
23 foundation, and I don't think you mean TransLink.

24 BY MS. YEAGER:

25 Q. Let me rephrase that. Yes, thank you.

1           If a lender were looking at an Experian  
2     credit report, would they be looking at a credit  
3     score that had been developed using the TransLink  
4     program?

5           MS. FRIEDMAN: Objection. Lack of  
6     foundation.

7           THE WITNESS: You know, there are lenders  
8     that used the TransRisk score, but I don't know. It  
9     depends on what lender you're talking about.

10    BY MS. YEAGER:

11       Q.    When a lender orders a credit score from  
12    each of the three credit bureaus, TransUnion,  
13    Equifax and Experian, are those scores all scored  
14    based upon the TransRisk program?

15       MS. FRIEDMAN: Objection. Lack of  
16    foundation.

17       THE WITNESS: It would -- I mean it would  
18    just depend upon what scoring model the lender was  
19    using.

20    BY MS. YEAGER:

21       Q.    Let me refer you back to a previous  
22    Exhibit, if I might. Let me refer you back to  
23    Exhibit No. 28.

24       Does TransUnion -- excuse me. Does the  
25    Experian MyFICO score use the TransRisk program?

1 A. No.

2 MS. FRIEDMAN: Objection. Lack of  
3 foundation.

4 BY MS. YEAGER:

5 Q. Does the Experian CreditXpert score use the  
6 TransRisk program?

7 MS. FRIEDMAN: Same objection.

8 THE WITNESS: Well, these are all scoring  
9 models. So you have the three credit reports. And  
10 you can run any of your three reports through any of  
11 these scoring models. That's how I understand it to  
12 work.

13 BY MS. YEAGER:

14 Q. Would a lender obtaining an Experian Credit  
15 Report obtain a credit score from Experian as well  
16 as the credit report?

17 MS. FRIEDMAN: Objection. Lack of  
18 foundation.

19 THE WITNESS: I don't know.

20 MS. YEAGER: Let's mark Exhibit No. 30,  
21 please.

22 (TrueLink Exhibit No. 30  
23 marked for identification.)

24 BY MS. YEAGER:

25 Q. This is a document number TLM018370.

1 paragraph that begins with "Contact the Social  
2 Security Administration."

3 A. Uh-huh.

4 Q. This would seem to indicate that a social  
5 security number could be used to establish credits  
6 or new accounts. Are you familiar with how that  
7 might happen?

8 A. I am familiar with how to apply for a new  
9 account.

10 Q. Are you aware of any services that your  
11 company provides to individuals whose social  
12 security number has been used to establish new  
13 accounts?

14 A. Well if there was a new account -- you  
15 know, new accounts are one of the things that we --  
16 that trigger an alert. So if there is a new  
17 account, then that would be a service for that type  
18 of person.

19 Q. Do you know whether or not this text was  
20 written by someone from TransUnion or written by  
21 someone from TransUnion Interactive?

22 MS. FRIEDMAN: Objection. Lack of  
23 foundation.

24 THE WITNESS: I don't know who wrote this  
25 document.

1 MS. YEAGER: I'd like to mark Exhibit 34,  
2 please.

3 (TrueLink Exhibit No. 34  
4 marked for identification.)

5 BY MS. YEAGER:

6 Q. Are you familiar with Exhibit 34?

7 A. Yes.

8 Q. Did you help to develop this --

9 A. Yes.

10 Q. -- piece of information?

11 Do you have any idea generally when this  
12 document was in use?

13 A. It was first in use when we introduced this  
14 unlimited reports and scores, which was mid 2005.

15 Q. Are the items that are referenced in this  
16 black box -- I'm certain that it was probably a  
17 beautifully colored photograph before it was  
18 reproduced on a copier. Is that a save assumption  
19 on my part?

20 A. Yes.

21 Q. Within what is now black text, are the  
22 services that are listed there services that one  
23 must pay for?

24 A. The unlimited access to your credit  
25 reports, notification and insurance, yes.

1 Q. What is a complimentary credit score?

2 A. The complimentary score is the TransUnion  
3 score that accompanies the 3-in-1 Credit Report.

4 Q. Under the "Please Note" box, which is the  
5 first text, it says "TrueCredit features TransUnion  
6 data for all complimentary credit scores as well as  
7 fraud-watch e-mails."

8 A. Uh-huh.

9 Q. Does this notify the consumer that the  
10 credit scores which are depicted by this image are  
11 based on the TU scoring model?

12 A. The "Please Note" is standard on -- in our  
13 communications and on the web site. When we promote  
14 the free credit score with the 3-in-1 purchase, that  
15 is to notify the customer that the complimentary  
16 score is based on TransUnion data.

17 And then in the past in some of those other  
18 promotions that we were looking at, we would offer  
19 the fraud-watch e-mails complimentary for a certain  
20 period of time, and those were also based on  
21 TransUnion data. So that's the purpose of the  
22 "Please Note."

23 Q. When were the fraud-watch e-mails  
24 complimentary?

25 A. Again, I don't know the exact period of

1 time.

2 Q. Was that particular feature, the  
3 complimentary fraud-watch e-mails, offered with a  
4 specific version of one of your products?

5 A. It was offered with purchase of a credit  
6 report, but I don't know the exact -- there was  
7 various product configurations.

8 Q. Going back to Exhibit 34. Did you intend  
9 to convey to the consumer that the TransUnion score  
10 reflected here of 724 would be a score computed by  
11 TransUnion?

12 A. The purpose of the samples -- and I think  
13 it's not showing up here, but it says "sample"  
14 across -- is just to show what credit scores could  
15 be and, you know, to pique curiosity of what is your  
16 score.

17 Q. Did you intend to convey that the Experian  
18 score which would be provided with the 3-in-1 Report  
19 was computed by Experian?

20 A. No. We're intending to convey that these  
21 are credit scores based off of data provided by the  
22 three national credit bureaus.

23 MS. YEAGER: I'd like to mark Exhibit  
24 No. 35.

25

1 (TrueLink Exhibit No. 35  
2 marked for identification.)

3 BY MS. YEAGER:

4 Q. Are you familiar with Exhibit No. 35?

5 A. Yes. I think we already looked at this.

6 Q. Have we looked at this?

7 A. Yeah.

8 MS. YEAGER: Let's withdraw that then.

9 MS. FRIEDMAN: Yes. It's Exhibit No. 27.

10 MS. YEAGER: I apologize for the delay.

11 There is no need to solicit duplicate testimony so  
12 I'm trying to cull through some of the documents I  
13 intended to use for exhibits, and I'll beg your  
14 indulgence for a few more minutes.

15 Let's make this then 35.

16 (TrueLink Exhibit No. 35  
17 re-marked for identification.)

18 BY MS. YEAGER:

19 Q. Exhibit 35 is TLM956. Are you familiar  
20 with this document?

21 A. This -- it doesn't look as familiar as the  
22 others. It might be because it's older. I'm not  
23 sure. But it looks like a TrueCredit e-mail.

24 Q. But you don't recall actually designing  
25 this particular one?

1           A.    I don't know if it's just the way that it's  
2 reproduced. It doesn't look familiar to me. But I  
3 mean it looks like one of our e-mails.

4           Q.    In this e-mail under the text it says, "You  
5 have shown in the past that you are concerned about  
6 your credit report and score."

7                   Is this an example of the targeted e-mails  
8 that you mentioned in your earlier testimony today?

9           A.    Well, yes. I mean this would be sent to  
10 someone who had, you know, their -- they've opted to  
11 receive e-mail from us, they've ordered a product  
12 that they aren't on a subscription. They just  
13 ordered a one-time credit report.

14          Q.    And how can you tell that?

15          A.    We can tell that from their purchase  
16 history.

17          Q.    Are there other individual pieces that  
18 would be designed for targeting to other sets of  
19 individuals?

20                   For example, this isn't the only instance  
21 in which you developed a targeted e-mail, is it?

22          A.    No.

23          Q.    And do you have any idea how many targeted  
24 e-mails you would have developed within 2006?

25          A.    Well they are all targeted to some extent

1 as far as selling products to people who don't own  
2 those products. So we weekly. So 52. Almost.  
3 Probably 50.

4 Q. And is there some document within your  
5 company that would identify which e-mails might be  
6 sent to which customer?

7 A. Yes.

8 Q. And what document is that?

9 A. It's a marketing calendar, e-mail marketing  
10 calendar.

11 Q. Does that take the form of a report or a  
12 spreadsheet?

13 A. It's a spreadsheet that's set up like a  
14 calendar.

15 Q. So when you actually view it, it appears as  
16 though you're looking at a calendar?

17 A. Uh-huh.

18 Q. And does the fact that it's set up in a  
19 calendar help track which e-mails might be sent on  
20 any given day?

21 A. Uh-huh.

22 Q. Is that the purpose for setting it up?

23 A. Yes.

24 Q. Is that the purpose for setting it up as a  
25 display for a calendar?

1 A. Yes.

2 Q. Did you help develop this piece?

3 A. Yes.

4 Q. Is this an e-mail?

5 A. Yes.

6 Q. Is this an e-mail that would have been sent  
7 to a selected group of customers?

8 A. Yes.

9 Q. Are all e-mails sent to only selected  
10 groups of customers?

11 A. What do you mean by selected group?

12 Q. Is there any instance in which an e-mail  
13 would be sent to every customer?

14 MS. FRIEDMAN: I'm sorry, go ahead and  
15 answer. Then we can go off the record for a second.

16 THE WITNESS: I was just going to say that  
17 no, because not all of our customers want to receive  
18 e-mail from us. So it's just those who opt to  
19 receive e-mail.

20 MS. YEAGER: Can I ask one follow-up  
21 question or do you need to stop?

22 MS. FRIEDMAN: I think it might help.

23 MS. YEAGER: Go ahead.

24 THE VIDEOGRAPHER: We are going off the  
25 record at 2:28.

1 (Whereupon, a break was taken  
2 from 2:228 until 2:29 p.m.)

3 THE VIDEOGRAPHER: We are back on the  
4 record at 2:29 p.m.

5 BY MS. YEAGER:

6 Q. And there are -- okay. There are some  
7 individuals who sign up to receive your e-mails who  
8 never buy a product from your company, is that  
9 correct?

10 A. Or who have not yet bought a product.

11 Q. Are there individuals who elect not to  
12 receive any e-mails at all?

13 A. Yes.

14 Q. For those of your customers who have  
15 actually already purchased a product, thinking of  
16 that group of people, are there instances when all  
17 of those individuals would receive an e-mail?

18 A. Yes.

19 Q. The more common practice, if I'm  
20 understanding your testimony, is that it is much  
21 more common for an e-mail to be sent to a subset of  
22 your customers who have already purchased a product  
23 rather than all your customers who have already  
24 purchased a product?

25 A. Yes.

1 Q. I would like to direct your attention to  
2 the item number 3, "Watch your progress: With 24  
3 hour e-mail notice of critical changes, plus the  
4 ability to refresh your three reports every day,  
5 your progress is easy to track."

6 Did I read that correctly?

7 A. Yes.

8 Q. And we've already talked about the  
9 frequency of e-mails and how one can now receive  
10 notification within 24 hours. Is -- if a consumer  
11 elects to refresh their reports every day, what does  
12 that mean?

13 A. That means that they are getting an updated  
14 credit report every day.

15 Q. Can one get an updated credit report more  
16 often than once a day?

17 A. No.

18 Q. Can one update a credit report utilizing  
19 this product, can one update a credit report from  
20 one bureau without updating a credit report from all  
21 three bureaus?

22 A. Not with this product, no.

23 Q. Is there a product with which a customer  
24 could do that?

25 A. Well with the TransUnion Credit Monitoring

1 the photocopier was corrected.

2 We appreciate the fact that you went to so  
3 much effort to do that. This happened in a number  
4 of instances.

5 MS. FRIEDMAN: But you're not suggesting  
6 that you played with the toning.

7 MS. YEAGER: Oh, no. That's something that  
8 you did for us.

9 MS. FRIEDMAN: I don't know that we did,  
10 but I can see that they are marked as separate  
11 pages.

12 MS. YEAGER: That happened in several  
13 instances in the document production where there  
14 were multiple pieces so that we could see the entire  
15 picture.

16 For example, if someone had only given us  
17 588 we wouldn't have had, as you noted, the check  
18 marks.

19 BY MS. YEAGER:

20 Q. The text, if I can direct you to 587,  
21 references the Federal Trade Commission. What is  
22 your knowledge about the reference in this piece in  
23 2003 to the Federal Trade Commission and their  
24 report about the number of identity theft incidents?

25 A. My knowledge is that we took some

1 statistics from their report, or whatever they had  
2 issued, on the number of victims of identity theft.

3 Q. Do you know what report is being  
4 referenced?

5 A. I don't.

6 Q. Do you know what the Federal Trade  
7 Commission uses for a definition of identity theft?

8 MS. FRIEDMAN: Objection. Vague. What  
9 point in time?

10 THE WITNESS: I don't know how they define  
11 identity theft.

12 BY MS. YEAGER:

13 Q. Do you know how identity theft was defined  
14 in the particular report referenced here?

15 A. No.

16 Q. Can you tell me what TU Interactive  
17 considers identity theft?

18 MS. FRIEDMAN: Objection. Lack of  
19 foundation.

20 THE WITNESS: As far as I know we don't  
21 have a definition, a company-wide definition.

22 MS. YEAGER: Exhibit No. 39, please.

23 (TrueLink Exhibit No. 39  
24 marked for identification.)

25

CERTIFICATE OF SERVICE

I, Christopher J. Curtin, Esq., hereby certify that on November 13, 2007, I served a copy of the foregoing Appendix to Plaintiffs' Reply to Defendant's Answering Brief in Opposition to Plaintiffs' Motion for Partial Summary Judgment by depositing the same in the United States Mail, postage prepaid to:

William M. Lafferty, Esq.  
Jay N. Moffitt, Esq.  
Morris Nichols Arsht & Tunnell  
1201 N. Market St.  
Wilmington, DE 19801  
[wlafferty@mnat.com](mailto:wlafferty@mnat.com)

and that I served a copy electronically this day to the following:

Michael C. O'Neil  
Paula D. Friedman  
DLA Piper US LLP  
203 N. LaSalle St., Ste. 1900  
Chicago, IL 60601-1293  
[michael.Oneil@dlapiper.com](mailto:michael.Oneil@dlapiper.com)  
[paula.friedman@dlapiper.com](mailto:paula.friedman@dlapiper.com)

/s/ Christopher J. Curtin  
Christopher J. Curtin, Esquire  
MacElree Harvey, Ltd.  
5721 Kennett Pike  
Centreville, DE 19807  
Phone: 302.654.4454  
Facsimile: 302.654.4954  
Email: [ccurtin@macelree.com](mailto:ccurtin@macelree.com)  
Website: [macelree.com](http://macelree.com)

COUNSEL FOR PLAINTIFFS  
STEVEN G. MILLETT  
AND MELODY J. MILLETT

DATE: November 13, 2007